



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the Act). The landlord applied for an order of possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding, which declares that on December 16, 2011 the landlord served the tenants with notice of the direct request proceeding by registered mail. Section 90 of the Act states that a document is deemed to have been served five days after mailing.

Based on the landlord's written submissions, I find that the tenants have been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The Landlord submitted the following evidentiary material:

- a copy of a residential tenancy agreement, signed by the tenants and the landlord on January 24, 2011, indicating a monthly rent of \$770 due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on December 3, 2011, with an effective vacancy date of December 13, 2011, for failure to pay rent in the amount of \$770 that was due on December 1, 2011;
- a copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, showing that the tenant was served the 10 Day Notice to End

Tenancy for Unpaid Rent by posting the notice on the rental unit door in the presence of a witness on December 3, 2011; and

- a copy of the Landlord's Application for Dispute Resolution, filed December 15, 2011, indicating that on December 12, 2011 the tenants paid \$385 toward the rent, and the landlord issued a receipt for use and occupancy only.

### Analysis

I have reviewed all documentary evidence and I accept that the tenants have been served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on December 6, 2011.

I accept the evidence before me that the tenants have failed to pay the full rent owed within the five days granted under section 46(4) of the Act. I find that the tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice.

I therefore find that the landlord is entitled to an order of possession and a monetary order for unpaid rent in the amount of \$385.

### Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The tenant must be served with the order of possession. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I grant the landlord an order under section 67 for the balance due of \$385. This order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 21, 2011.

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Residential Tenancy Branch