



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and Monetary Order due to unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 30, 2011, the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the Act deems the Tenant was served on January 4, 2012.

Based on the written submissions of the Landlord, I find that the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the Residential Tenancy Act (the "Act") and to a monetary order for unpaid rent, pursuant to section 67 of the Act.

### Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by the parties on May 17, 2008 for the monthly rent of \$665.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which was issued on, December 3, 2011, with an effective vacancy date of December 14, 2011, due to \$680.00 in unpaid rent; and

Documentary evidence filed by the Landlord indicates that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent via personal delivery on December 3, 2011, in the presence of a witness.

The written submission of the Landlord indicated that the Tenant failed to pay rent for December 2011, in the amount of \$680.00

### Analysis

I have reviewed all documentary evidence and accept that the Tenant has been served with a notice to end tenancy as declared by the Landlord.

I accept the evidence before me that the Tenant failed to pay rent within the 5 days granted under section 46 (4) of the *Act* and did not apply to dispute the Notice.

Based on the foregoing, I find that the Tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice. Therefore, I find that the Landlord is entitled to an Order of possession.

As to the Landlord's request for a monetary order, the Landlord has provided a copy of the 10 Day Notice to End Tenancy which was issued on December 3, 2011 and states you have failed to pay rent in the amount of \$680.00 that was due on December 1, 2011. "

Under the tenancy agreement, the monthly rent was \$665.00 and the Landlord failed to provide evidence to substantiate that the monthly rent had increased to \$680.00.

I therefore find that the Landlord has failed to substantiate that the Tenant's monthly rent had increased to \$680.00, and I therefore dismiss that portion of the Landlord's application for a monetary order, with leave to reapply.

### Conclusion

I grant the Landlord an Order of Possession effective **two days after service** on the Tenant.

I am enclosing an Order of Possession with the Landlord's Decision. This Order is a **legally binding, final Order**, and may be filed in the Supreme Court of British Columbia should the Tenant fail to comply with this Order of Possession.

The portion of the Landlord's Application for a Monetary Order is dismissed with leave to re-apply.

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: January 06, 2012.

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Residential Tenancy Branch