



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes OPR, MNR

### Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the “Act”), and dealt with an Application for Dispute Resolution by the landlord 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 February 8, 2012, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail.

Section 90 of the Act states that documents served in this manner are deemed served 5 days later.

Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

### **Preliminary Issue:**

The landlord’s application contained a request for a monetary order in the amount of \$795.00 in unpaid rent. However, the 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) listed unpaid rent in the amount of \$790.00. As a result, I decline to consider the landlord’s request for a monetary order of \$795.00, and amended the amount requested to \$790.00.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 46, 55 and 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 16, 2011, indicating a monthly rent of \$795.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 2, 2012, with a stated effective vacancy date of January 15, 2012, for \$790.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door on January 2, 2012. Section 90 of the Act deems the tenant was served on January 5, 2012.

The Notice states that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

### Analysis

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

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

I have no evidence before me that the tenant has filed 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 and a Monetary Order for unpaid rent.

### 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 for enforcement should the tenant fail to comply with this Order of Possession.

I find that the landlord is entitled to monetary compensation pursuant to section 67 of the Act and I grant the landlord a monetary order in the amount of **\$790.00**, comprised of rent owed.

I am enclosing a monetary order for \$790.00 with the landlord's Decision. This order is a **legally binding, final order**, and it may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement should the tenant fail to comply with this monetary order.

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: February 14, 2012.

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Residential Tenancy Branch