



# Dispute Resolution Services

Page: 1

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 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 17, 2012 the Landlord served the Tenants in person with the Notice of Direct Request Proceeding. Based on the evidence and written submissions of the Landlord, I find that the Tenants were served as required by s. 89 of the Act 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 and to a Monetary Order for unpaid rent pursuant to sections 46, 55 and 67 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The Landlord submitted the following documentary evidence:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenants;
- A copy of a residential tenancy agreement which was signed by the parties on September 27, 2011 for a one year fixed term tenancy beginning October 1, 2011 for the monthly rent of \$850.00 due in advance on the 1st day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 2, 2012 which was issued on February 2, 2012, with an effective vacancy date of February 12, 2012 due to \$850.00 in unpaid rent.

The evidence filed by the Landlord indicates that the Tenants failed to pay the rent owed for the month of February 2012 and that the Tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent on February 2, 2012 when it was posted to the

rental unit door. The Notice states that the Tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenants did not apply to dispute the Notice to End Tenancy within five days.

### Analysis

I have reviewed all of the documentary evidence and accept that the Tenants have been served with the Notice to End Tenancy as declared by the Landlord. The Notice was deemed (pursuant to s. 90 of the Act) to have been received by the Tenants 3 days after it was posted or on February 5, 2012. Consequently, the effective date of the Notice is amended pursuant to s. 53 of the Act to February 15, 2012.

I accept the evidence before me that the Tenants have not paid the rent for February 2012 within the 5 days granted (or by February 10, 2012) under section 46 (4) of the Act. Based on the foregoing, 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.

### Conclusion

I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenants**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I also find that the Landlord is entitled to a Monetary Order for \$850.00 representing the unpaid rent for February 2012. This Order must also be served on the Tenants and may be filed in the Provincial (Small Claims) Court of British Columbia 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: February 22, 2012.

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Residential Tenancy Branch