



# 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 Landlords for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 13, 2012 at 12:05 p.m. the Landlords served each Tenant personally with the Notice of Direct Request Proceeding at the rental unit. Based on the written submissions of the Landlords, I find that each Tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

Are the Applicant Landlords entitled to an Order of Possession and a Monetary Order under section 55 of the *Residential Tenancy Act*?

### Background and Evidence

The Applicants submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant ; and
- A copy of what appears to be a combination of a rental application and part of a tenancy agreement which is signed by the named respondent Tenants for a fixed term tenancy that is scheduled to end June 30, 2012; and
- A copy of a 2 Month Notice to End Tenancy for Landlord's use of property dated February 18, 2012; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 2, 2012, with an effective vacancy date of March 10, 2012, due to \$800.00 in unpaid rent that was due on March 1, 2012

Documentary evidence filed by the Landlord indicates that the female Tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent on March 2, 2012 at 6:00 p.m. and that she refused to sign the proof of service document. The proof of service document indicates the personal service was witnessed by a third party who has signed the proof of service document.

### Analysis

The Applicant has filed through the Direct Request process and In support of their claim the Applicant has submitted, among other documents, a copy of what appears to be a tenancy agreement; however the Landlords' names or signatures to not appear on this document; nor is this document list the date the Tenants signed it. The Landlords' also provided a copy of a 2 Month Notice which was issued February 18, 2012.

Section 51 of the Act provides that a tenant who receives a notice to end a tenancy under section 49 (landlord's use of property) is entitled to receive from the landlord an amount that is the equivalent of one month's rent payable under the tenancy agreement.

Based on the foregoing, I find there to be insufficient evidence to determine if March rent remains unpaid by the Tenants because they are withholding rent as compensation under Section 51 of the Act or if it remains unpaid due to a breach of section 26 of the Act which states rent must be paid in accordance with the tenancy agreement.

Therefore, I find that a conference call hearing is required in order to determine the details of the Applicants claim.

### Conclusion

I HEREBY FIND that a conference call hearing is required in order to determine the merits of this Application for Dispute Resolution.

**Notices of reconvened hearing are included with this decision for the Landlord to serve to the Tenant within 3 days of receipt of this decision, accordance with section 89 of the Act.**

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to rely upon at the new hearing. Fact sheets are available at <http://www.rto.gov.bc.ca/content/publications/factSheets.aspx> that explain evidence and service requirements. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

**Lower Mainland:** 604-660-1020

**Victoria:** 250-387-1602

**Elsewhere in BC:** 1-800-665-8779

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: March 20, 2012.

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Residential Tenancy Branch