



# 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 based on unpaid rent and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 15, 2012, the landlord's agent handed the tenant the Notice of Direct Request Proceeding. Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation 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 served to the tenant;
- A copy of a residential tenancy agreement which was signed by the then landlord and the then two co-tenants, one of whom has remained a tenant throughout this tenancy, indicating a monthly rent of \$640.00 due on the 1st day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on the tenant's door on June 3, 2012 with a stated effective vacancy date of June 12, 2012, for \$700.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the tenant failed to pay all outstanding rent was served by posting the 10 Day Notice to the tenant's door at 3:34 p.m. on June 3, 2012. In accordance with section 88 and 90 of the *Act*, the tenant was deemed served with this 10 Day Notice on June 6, 2012, three days after its

posting. As allowed under the *Act*, the effective date of the 10 Day Notice is corrected to June 16, 2012, the earliest possible date that the 10 Day Notice could take effect.

The Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been deemed served with notice to end tenancy as declared by the landlord. The landlord misspelled the tenant's given name on the application for dispute resolution, reversing two of the letters. The landlord spelled the tenant's given name correctly in all other documents relating to this matter supplied by the landlord (i.e., the Proof of Service of the Notice of Direct Request, the 10 Day Notice, the Proof of Service of the 10 Day Notice, and the tenancy agreement). In accordance with the *Act*, I have corrected the tenant's given name to that shown above as I am satisfied that this was a minor oversight and that the tenant as identified above was served all of the above documents.

Although the landlord has not provided a copy of the documents relating to the increases in rent that have occurred since this tenancy was signed in 2007, the landlord stated in the written evidence that the most recent rent increase raised the monthly rent to \$700.00 as of December 1, 2011. On the basis of the landlord's provision of an extensive rent ledger for this tenancy entered into written evidence by the landlord, I am also satisfied that the correct current monthly rent is \$700.00. This rent ledger shows that the tenant failed to pay \$200.00 of the January 2012 monthly rent and \$500.00 of the March 2012 rent.

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*.

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 corrected effective date of the 10 Day Notice, June 16, 2012.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of \$700.00 for unpaid rent owed for this tenancy.

### Conclusion

I find that the landlord is entitled to an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of \$700.00 for rent owed as set out in the 10 Day Notice. The landlord is

provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: June 22, 2012

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Residential Tenancy Branch