



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This non-participatory matter was conducted 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 for the rental unit due to unpaid rent and for 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 July 26, 2012, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the Act states that the tenant was deemed served on July 31, 2012.

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 the rental unit due to unpaid rent and for a monetary order for unpaid rent?

### 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 November 30, 2009, for the monthly rent of \$975.00; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which was dated June 28, 2012, with an effective vacancy date of July 12, 2012, due to \$1015.00 in unpaid rent for June 1, 2012

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 and posting on the door on June 28, 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.

The application of the landlord indicated that the tenant's rent cheque for June 2012 in the amount of \$1015 was returned due to non sufficient funds. The landlord requested a monetary order in the amount of \$1015.00.

### 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 all rent due 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 for the rental unit.

As to the landlord's request for a monetary order, the landlord applied for a monetary order for \$1015.00, listing unpaid rent for June 2012, in that amount. The landlord has failed to demonstrate that the monthly rent had been increased from the original amount of \$975.00 listed in the tenancy agreement to \$1015.00.

I therefore cannot determine that the tenant owed monthly rent in the amount of \$1015.00.

I therefore find that the landlord has not submitted sufficiently clear evidence to support the amount of their monetary claim.

I therefore find that the portion of the landlord's application for a monetary order does not meet the requirements for the Direct Request process.

### Conclusion

I grant the landlord an order of possession effective two days after service on the tenant, which is enclosed 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: August 02, 2012.

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Residential Tenancy Branch