



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR

This matter 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 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 November 16, 2012, the landlords served the tenant in-person with the Notice of Direct Request Proceeding.

Section 90 of the Act provides that a document served in this manner is deemed to have been received on that same date. Based on the written submissions of the landlords, I find that the tenant has been duly served with the Direct Request Proceeding documents.

### Issues to be Decided

Are the landlords entitled to an order of possession?

Are the landlords entitled to a monetary order for unpaid rent?

### Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of the residential tenancy agreement which was signed by the parties on September 28, 2012, indicating that the tenant is obligated to pay \$650.00 in rent in advance on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on November 2, 2012, with a stated effective vacancy date of November 15, 2012, for \$650.00 in rent which was unpaid when due on November 1, 2012, and

- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlords served the notice to end tenancy on the tenant by way of posting on her door on November 2, 2012.

Section 90 of the Act provides that as the notice to end tenancy was served by way of posting on the tenant's door on November 2, 2012, the tenant is deemed to have received the notice 3 days later on November 5, 2012.

The Notice restates section 46(4) of the Act which provides that the tenant had 5 days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice to End Tenancy within 5 days from the date of service, and the landlords claim that on November 9, 2012, the tenant made a payment toward rent in the limited amount of \$325.00.

### Analysis

I find that the tenant received the notice to end tenancy on November 5, 2012. I accept the landlords' evidence and I find that the tenant made only a limited payment of \$325.00 toward overdue rent, and she did not apply to dispute the notice. The tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. I grant the landlords an order of possession which must be served on the tenant. Should the tenant fail to comply, the order may be filed for enforcement in the Supreme Court.

I accept the evidence before me that the tenant has failed to pay a total of \$325.00 (\$650.00 - \$325.00) in unpaid rent for November 2012. I find that the landlords are entitled to recover the rental arrears and I grant the landlords a monetary order for \$325.00.

### Conclusion

I hereby issue an order of possession in favour of the landlords effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$325.00**. This order may be served on the tenant, filed in the Small Claims Court 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: November 26, 2012.

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Residential Tenancy Branch