



# 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 *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 28, 2012 the landlord personally served the tenant with the Notice of Direct Request Proceeding at the rental unit address. Service occurred at 10 a.m. and the tenant signed a proof of service document, acknowledging receipt of the documents. A copy of the proof of service document was supplied as evidence.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents, on the day of personal delivery.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation 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 December 21, 2011, indicating a monthly rent of \$1,800.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 16, 2012 with a stated effective vacancy date of November 26, 2012, for \$5,300.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was personally served the 10 Day Notice to End Tenancy for Unpaid Rent on November 16, 2012 at 6 p.m. The tenant signed a proof of service document, supplied as evidence, acknowledging receipt of the Notice. The Act deems the tenant was served on the day of personal delivery.

The Notice states that the tenant had five days to pay the rent 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.

The landlord has claimed compensation as follows:

- \$1,700.00 September, 2012 rent;
- \$1,800.00 October 2012 Rent, and
- \$1,800.00 November, 2012 rent.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord.

The Notice is deemed to have been received by the tenant on November 16, 2012.

I accept the evidence before me that the tenant has failed to pay the rent owed from September to November, 2012, inclusive, in the sum of \$5,300.00, within the 5 days granted under section 46 (4) of the Act. There was no evidence before me that the tenant disputed 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; November 26, 2012.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid rent from September to October, 2012, inclusive, in the sum of \$5,300.00.

Based on these determinations I grant the landlord a monetary Order for \$5,300.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion

The landlord has been granted a monetary Order for unpaid rent and an Order of possession.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 02, 2012.

---

Residential Tenancy Branch