



# Dispute Resolution Services

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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 June 11, 2013 at 5:30 p.m. the male tenant was personally given the Notice of Direct Request Proceeding. The landlord provided a Proof of Service document indicating service occurred in this manner.

A 2<sup>nd</sup> Proof of Service document indicated that the female tenant was served copies of the Notice of Direct Request documents sent to the rental unit address via registered mail. A Canada Post receipt and tracking number was provided as evidence of service. Section 90 of the Act determines that a document is deemed to have been served on the 5<sup>th</sup> day after mailing.

Based on the written submissions of the landlord, I find that the male tenant was served with the Direct Request Proceeding documents on the day of personal delivery; June 11, 2013 and that the female tenant was served on June 17, 2013, the 5<sup>th</sup> day after mailing.

### 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 tenants;

- A copy of a residential tenancy agreement which was signed by the parties on June 18, 2012, indicating a monthly rent of \$1,795.00 due on the 1<sup>st</sup> day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 2, 2013 with a stated effective vacancy date of June 13, 2013, for \$1,795.00 in unpaid rent due on June 1, 2013.

Documentary evidence filed by the landlord indicates that the tenants have failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the tenant's door on June 2, 2013 at 10:27 a.m. The landlord supplied a copy of a Proof of service documents signed by the landlord and her daughter, who attended to witness service.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end.

The landlord has requested compensation in the sum of \$1,795.00 for June 2013 rent owed and an Order of possession.

### Analysis

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

The Notice is deemed to have been received by the tenants on the 3<sup>rd</sup> day after posting; June 5, 2013.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to June 15, 2013.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*. There was no evidence before me that the tenants disputed the Notice.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice; June 15, 2013.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid June 2013 rent in the sum of \$1,795.00.

Based on these determinations I grant the landlord a monetary Order in the sum of \$1,795.00 for June 2013 rent owed. In the event that the tenants do not comply with this Order, it may be served on the tenants, 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 tenants**. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession and a monetary Order for unpaid rent.

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 19, 2013

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Residential Tenancy Branch

