



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNR

### Introduction

This hearing 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 Landlord for an Order of Possession for unpaid rent and 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 August 20, 2013, at 6:00 p.m. the Landlord personally served each Tenant with the Notice of Direct Request Proceeding. Based on the written submissions of the Landlord, I find that each Tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant;
- A copy of a residential tenancy agreement which was signed by the Landlord and Tenant W.T. for a fixed term tenancy agreement that began on August 11, 2012 and was set to end on August 11, 2013, for the monthly rent of \$896.00 due in the 1<sup>st</sup> of each the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 8, 2013, with an effective vacancy date listed as August 17, 2013, due to \$1,440.23 in unpaid rent that was due on August 1, 2013; and

- The Landlord's written submission which indicates the unpaid rent is comprised of \$544.23 owing from July 1, 2013 plus \$896.00 for August 1, 2013. The Landlord also submitted that the Tenants confirmed receipt of the 10 Day Notice on August 8, 2013.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on August 8, 2013, when it was posted to their door, in the presence of a witness; and that they confirmed receipt the same day.

### Analysis

I have reviewed all documentary evidence and note that Tenant E.M. did not sign the tenancy agreement, however Tenant W.T. did. Therefore, as this application has been filed under the Direct Request process I find it can only proceed against Tenant W.T., who is a signatory to the tenancy agreement. Accordingly, I dismiss the claim against Tenant E.M. without leave to reapply; and I proceeded with the claim against Tenant W.T.

**Order of Possession** - 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 was confirmed received by the Tenant on August 8, 2013, and the effective date of the notice is August 18, 2013, pursuant to section 90 of the *Act*. 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 effective date of the Notice and I hereby grant the Landlord an Order of Possession.

**Monetary Order** – The evidence supports that the Tenant has failed to pay rent in accordance with section 26 of the *Act* which stipulates that a tenant must pay rent when it is due under the tenancy agreement. The Tenant has an unpaid balance owing of \$1,440.23 accumulated between July 1, 2013 and August 2013. As per the aforementioned I find the Landlord has met the burden of proof and I award her a Monetary Order for **\$1,440.23**.

### Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

The Landlord has been awarded a Monetary Order in the amount of **\$1,440.23**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia 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: August 23, 2013

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Residential Tenancy Branch

