



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CENTURY 21 KOOTENAY HOMES INC.  
and [tenant name suppressed to protect privacy]

## **DIRECT REQUEST DECISION**

### Dispute Codes

OPR, MNR

### **Introduction**

The 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 and a monetary order for rental arrears.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 12, 2013, the landlord served each of the two co-tenants with the Notice of Direct Request Proceeding by registered mail, which under the Act is deemed to be received in five days.

Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

### **Preliminary Matter**

The Fact Sheet containing directions and the requirements to apply for a resolution under this section states that the following mandatory documentation must accompany the Application: Copy of the 10 Day Notice to End Tenancy; Copy of the Tenancy Agreement signed by the parties and Proof of Service of the 10 Day Notice to End Tenancy

Submitted into evidence was a copy of the tenancy agreement showing rent set at \$800.00 per month and a security deposit in the amount of \$400.00. Although the names of both co-tenants are shown on page one of the tenancy agreement, the last page of the document was only signed by *one* of the co-tenants who the landlord named in the style of cause in this application. The signature of the first co-tenant along with the date of December 6, 2012 is shown on the final signature page of the agreement, under the landlord's signature section. However, under the second cotenant's typed name the line reserved for the hand-written signature of the second co-

tenant was left blank, as was the signature date space adjacent to where the signature should have been.

In this instance, I find that the landlord had complied by submitting a copy of the tenancy agreement, but it was only signed by one of the two respondent tenants. Therefore, I find that the request for a Monetary Order must only proceed against the tenant who signed the agreement and will not proceed against the second co-tenant who failed to sign the tenancy agreement.

### **Issue(s) to be Decided**

Is the landlord entitled to an Order of Possession and a monetary Order for rental arrears pursuant to 55 and 67 of the *Residential Tenancy Act (the Act)*?

#### **Proof of Service of 10 Day Notice to End Tenancy**

The landlord submitted a copy of the Notice to End Tenancy for Unpaid Rent and a "Proof of Service" form stating that the Notice was served to the tenant by sending it by registered mail on August 27, 2013.

The purpose of serving documents under the *Act* is to notify the person of a failure to comply with the *Act* and of their rights in response. The landlord, seeking to end the tenancy has the burden of proving that the tenant was served with the Notice to End Tenancy and I find that the landlord has met this burden.

### **Analysis**

The landlord submitted written testimony indicating that the tenant had fallen into arrears for August 2013 in the amount of \$800. Based on the evidence, I find the landlord is entitled to monetary compensation under section 67 in the amount of \$800.00 for unpaid rent.

Based on the testimony of the landlord, I find that the tenants were served with a Notice to End Tenancy for Unpaid Rent. The tenants have not paid the outstanding rent and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice. Given the above facts I find that the landlord is entitled to an Order of Possession.

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the landlord a monetary order in the amount of \$800.00 against the co-tenant who signed the tenancy agreement. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

**Conclusion**

The landlord is successful in the application and is granted an Order of Possession and a monetary order against one of the respondents.

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: September 19, 2013

---

Residential Tenancy Branch

