



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), and deals with an Application for Dispute Resolution by the Landlord for:

1. An Order of Possession – Section 55; and
2. A Monetary Order for unpaid rent – Section 67.

Given the Landlord's signed proof of service of the Notice of Direct Request Proceeding (the “Documents”), I find that the Landlord served the first named Tenant with the Documents by registered mail on October 16, 2013 and served the second named Tenant with the Documents personally on October 15, 2013 in accordance with the Act.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a monetary order 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;

- A copy of a residential tenancy agreement signed by the Parties on June 20, 2013, indicating a tenancy start date of July 1, 2013 and a monthly rent of \$900.00 due on the first day of the month;
- A copy of a 10 day notice to end tenancy for unpaid rent ( the “Notice”) issued on October 2, 2013 with a stated effective vacancy date of October 2, 2013, automatically corrected to October 15, 2013, for \$900.00 in unpaid rent;
- A proof of service of the Notice showing that the Landlord served the Notice to the Tenant on October 2, 2013 by posting the Notice on the door; and
- A copy of a cheque from the first named Tenant for \$525.00 returned NSF.

The Tenant did not make an application to dispute the Notice and the Landlord claims \$575.00 in the application.

### Analysis

Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Section 46 of the Act provides that a tenant may, within 5 days after receiving a notice to end tenancy for unpaid rent, pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution. If a tenant does not pay the rent or make an application to dispute the notice, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice. Based on the submissions of the Landlord, I find that the Notice was deemed to have been served on October 5, 2013 and that the Tenant had until October 10, 2013 to pay the rent or make an application to dispute the Notice. I accept that the Tenant has failed to pay the rent and has not made an application to dispute the Notice. I find therefore that the Landlord is entitled to an Order of Possession. Although the Notice indicates that the amount of \$900.00 was

unpaid, I note that the Landlord has only claimed \$575.00 as the amount of unpaid rent in the application. As the Landlord has provided a copy of an NSF cheque for \$525.00 and considering that no other evidence was provided to support the amount claimed in the application, I find that the Landlord has substantiated an entitlement only to **\$525.00.**

Conclusion

**I grant** an Order of Possession to the Landlord effective **two days after service** 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.

I grant the Landlord an order under Section 67 of the Act for the amount of **\$525.00.** If necessary, this order may be 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: October 30, 2013

---

Residential Tenancy Branch

