



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SY Fong Holding Ltd.  
and [tenant name suppressed to protect privacy]

## **INTERIM 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 August 26, 2013 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided a Canada Post receipt and tracking number as evidence of service to each tenant. 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 each tenant been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid August 2013 rent in the sum of \$1,439.00?

### Background and Evidence

The landlord submitted the following evidentiary material:

- 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 parties on January 10, 2006, indicating a monthly rent of \$1,300.00 due on the 1<sup>st</sup> day of the rental period;
- A hand-written note to the tenants in relation to late August 2013 rent;
- A March 28, 2013 typed notice of rent increase, raising rent to \$1,439.00 effective July 1, 2013;

- An August 2, 2013 note to the tenants regarding late August 2013 rent; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on August 6, 2013 with a stated effective vacancy date of August 16, 2013, for \$1,439.00 in unpaid rent due August 1, 2013.

Documentary evidence filed by the landlord indicates that the tenants 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 August 6, 2013 at 11:45 a.m. A general manager, B.B., signed a proof of service document, supplied as evidence, confirming service occurred.

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

### Analysis

This application was submitted to the Residential Tenancy Branch on August 26, 2013. The application was then scheduled to be considered effective November 14, 2013 when it appears the proof of service documents were supplied by the landlord.

I cannot make inferences and assumptions when considering an application for dispute resolution. When applying via the Direct Request Proceeding process the submissions must be consistent and the documentary evidence must all align and I find that the information before me does not meet this standard.

The landlord has issued a Notice ending tenancy for unpaid rent in the sum of \$1,459.00, due August 1, 2013. The tenancy agreement supplied as evidence indicated rent was \$1,300.00 at the start of the tenancy in 2006. A copy of 1 notice of rent increase, which is not in the approved form, was supplied. The rent increase indicated rent would increase to \$1,439.00 effective July 1, 2103. Copies of previous notices of rent increase were not supplied as evidence.

No explanation was provided explaining the difference between the sum the landlord expects as rent payment and the sum indicated on the Notice ending tenancy.

There was no evidence before me in relation to the status of the tenancy since August 2013; whether any rent has been paid, and if so, the sum paid and possible reinstatement of the tenancy.

Therefore, in the absence of consistent written submissions I find that a participatory hearing is required in order to determine the sum of rent owed each month and whether the Notice ending tenancy is of force.

**Notices of hearing are included with this decision for the landlord to serve to each tenant within 3 days of receipt of this decision. The landlord must also serve each tenant a copy of this decision.**

Each party must serve the other and the Residential Tenancy Branch with any additional evidence that they intend to reply upon at the new hearing. Fact sheets are available at <http://www.rto.gov.bc.ca/content/publications/factSheets.aspx> that explain evidence and service requirements. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

**Lower Mainland:** 604-660-1020

**Victoria:** 250-387-1602

**Elsewhere in BC:** 1-800-665-8779

### Conclusion

This Direct Request Proceeding is adjourned to a participatory hearing.

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: November 26, 2013

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Residential Tenancy Branch

