



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded by way of an *ex parte* 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 landlords for an Order of Possession based on unpaid rent and a monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 25, 2013, Landlord KM handed the tenant the Notice of Direct Request Proceeding. In accordance with section 89 of the *Act*, I find that the tenant has been served with the Direct Request Proceeding documents on November 25, 2013.

### Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

### Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;
- Copies of residential tenancy agreements signed by the landlords and the tenant on July 2, 2013 and November 17, 2013, the latter of which was signed to correct the spelling of the tenant's name, indicating a monthly rent of \$1,300.00 due on the 1st day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) handed to the tenant on November 17, 2013, with a stated effective vacancy date of November 27, 2013, for \$1,300.00 in unpaid rent.
- A statement in the Details of the Dispute section of the landlords' application for dispute resolution in which the landlords maintained that \$266.66 in unpaid rent remained owing from this tenancy as of November 25, 2013.

The landlords entered documentary evidence that the tenant failed to pay all outstanding rent by submitting a Proof of Service document in which one of the landlords and a witness confirmed that the tenant was handed the 10 Day Notice at 4:00 p.m. on November 17, 2013. In accordance with sections 88 and 90 of the *Act*, the tenant was served with this 10 Day Notice on November 17, 2013.

The Notice states that the tenant had five days from the date of service to pay the rent **in full** or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

#### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlords. 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 10 Day Notice, November 27, 2013.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary Order of \$266.66 for unpaid rent owing from November 2013.

#### Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I find that the landlords are entitled to a monetary Order in the amount of \$266.66 for rent owed for November 2013. The landlords are provided with these Orders in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with these Orders, these

Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: December 02, 2013

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Residential Tenancy Branch

