



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Delaney Properties Ltd.  
and [tenant name suppressed to protect privacy]

## **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 signed Proofs of Service of the Notices of Direct Request Proceedings which declares that on June 11, 2014, the male landlord (the landlord) sent all five Respondents the Notices of Direct Request Proceeding by registered mail. The landlord provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these registered mailings. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Respondents have been deemed served with the Direct Request Proceeding documents on June 16, 2014, the fifth day after their registered mailing.

### 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:

- Copies of the Proof of Service of the Notice of Direct Request Proceeding served to the Respondents;
- A copy of a residential tenancy agreement (the Agreement) which was signed by the landlord(s) and three tenants (Tenants DM, SM and another unrecognizable member of the same family) on August 22, 2013 for a tenancy that began on

September 1, 2013, indicating a monthly rent of \$1,400.00 due on the 1st day of the month;

- A Tenant Rent Ledger showing the rent owing and paid during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on the tenants' door on June 2, 2014, with a stated effective vacancy date of June 14, 2014, for \$4,150.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the Respondents/Tenants failed to pay all outstanding rent was served by posting the 10 Day Notice to the tenants' door at 9:57 a.m. on June 2, 2014. In accordance with sections 88 and 90 of the *Act*, the Respondents/Tenants were deemed served with this 10 Day Notice on June 5, 2014, three days after its posting.

The Notice states that the tenants 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 tenants 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 tenants have been deemed served with notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenants have 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 tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, June 15, 2014. Therefore, I find that the landlords are entitled to an Order of Possession.

Turning to the landlords' application for a monetary Order, I note that Respondent SR was not identified on the Agreement, nor did he sign the Agreement. As such, the landlord cannot obtain a monetary Order against him. While the other four Respondents are identified as tenants in the Agreement, the only legible names and signatures for the tenants in the Agreement were from DM and SM. There is a third signature, but I cannot determine from the Agreement the identity of the third tenant signatory to the Agreement. For these reasons, I find that the only Respondents who are responsible for the monetary Order the landlords are requesting are Respondents DM and SM, the only identifiable tenants who signed the Agreement.

While the landlords have requested a monetary award of \$4,150.00, I find that the landlords have incorrectly added the payments made by the Respondents towards this tenancy since March 25, 2014. I find that the amount paid by the Respondents over that period totals \$4,600.00 and not the \$4,500.00 identified in the Tenant Rent Ledger entered into written evidence by the landlords. As such, I find that the landlords are entitled to a monetary Order totaling \$4,050.00 (\$8,650.00, the amount owed, - \$4,500.00, the amount paid = \$4,050.00) from Respondent DM and SM.

#### Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant. Should the Respondents and anyone on the premises 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 \$4,050.00 for rent owed as of June 11, 2014 by Respondents DM and SM. The landlords are provided with these Orders in the above terms and Respondents DM and/or SM must be served with **this Order** as soon as possible. Should these Respondents 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: June 25, 2014

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Residential Tenancy Branch

