



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This 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 for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 5, 2014, the Landlord served the Tenant by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlord, I find that the Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on August 10, 2014, five days after they were mailed, pursuant to section 90 of the Act.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy that commenced on December 1, 2013, and is set to switch to a month to month tenancy after November 30, 2014, for the monthly rent of \$1,450.00 due on or in advance of the 1st of each month;
- A Monetary Order Worksheet that lists amounts owed for rent for January, February, March, April, and May totaling \$6557.09;
- Two typed letters advising Tenant amount owed for utilities as follows: January 15, 2014 for \$433.04 and March 28, 2014 for \$1,207.09:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities which was issued on, June 27, 2014, with an effective vacancy date listed as July 7, 2014, due to \$5,350.00 in unpaid rent and \$1,207.09 in unpaid utilities that was due on June 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on June 27, 2014, when it was left with R.A.R-G, in the presence of a witness.

### Analysis

**Order of Possession** - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenant on June 30, 2014, three days after it was left at the rental unit in a conspicuous place, with R.A.R-G, pursuant to section 90 of the *Act*. 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 Notice and I hereby grant the Landlord an Order of Possession.

**Monetary Order** – The Direct Request procedure is based upon written submissions only and requires that the submissions be sufficiently clear, valid and supported by evidence in order to succeed.

The Landlord has filed an Application on July 28, 2014, seeking a Monetary Order for \$6,557.09 and provided a 10 Day Notice issued June 27, 2014 showing unpaid rent of \$5,350.00 plus \$1,207.09 in unpaid utilities, which total \$6,557.09; plus a Monetary Order worksheet which show unpaid rent and utilities from January 2014 to May 2014. No copies of the actual utility bills were provided in support of the amounts claimed or to support the letters issued to the Tenant requesting payment of utilities.

Based on the above, and in the presence of the undisputed 10 Day Notice, I find the Landlord has met the burden of proof to establish that at the time the 10 Day Notice was issued the Tenant owed \$5,350.00 in unpaid rent. Accordingly, I grant the Landlord a Monetary Order for **\$5,350.00** and dismiss the balance of \$1,207.09 for utilities, without leave to reapply. .

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

The Landlord has been issued an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlord has been awarded a Monetary Order in the amount of **\$5,350.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia 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: August 11, 2014

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Residential Tenancy Branch

