



# 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 male landlord (the landlord) submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 19, 2014, the landlord handed both tenants Notices of Direct Request Proceedings. The landlord provided proof of service documents signed by him and each of the tenants attesting to his hand delivery of the Notices of Direct Request Proceedings to them. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been served with the Direct Request Proceeding documents as declared by the landlord.

### 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 Notices of Direct Request Proceedings served to the tenants;
- A copy of a residential tenancy agreement which was signed by the landlords and the tenants on April 18, 2009, indicating a monthly rent of \$1,100.00 due on the 1st day of the month;

- Copies of two Notices of Rent Increase served to the tenant, which established that the monthly rent for this tenancy as of July 1, 2014 was set at \$1,150.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) handed to the female tenant on August 8, 2014, with a stated effective vacancy date of August 18, 2014, for \$1,700.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the tenants failed to pay all outstanding rent by handing the 10 Day Notice to the female tenant at 5:40 p.m. on August 8, 2014. In accordance with sections 88 and 90 of the *Act*, the tenants were served with this 10 Day Notice on August 8, 2014, as declared by the landlords.

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 served with notice to end tenancy as declared by the landlords.

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 effective date of the 10 Day Notice, August 18, 2014.

The landlords' application for a monetary award of \$1,675.00 included a request for \$525.00 still owing from the tenants' monthly rent for July 2014 and \$1,150.00 for August 2014. The landlord entered written evidence that the tenants paid \$650.00 on July 30, 2014. As \$1,150.00 was due for July 2014, I find that the landlords are entitled to a monetary award of \$500.00 for July 2014, plus \$1,150.00 for August 2014.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary Order of \$1,650.00 for unpaid rent owing from July and August 2014.

#### 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 \$1,650.00 for rent owed for July and August 2014. The landlords are provided with these Orders in the above terms and the tenants must be served with **this Order** as soon as possible. Should the tenant(s) 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: August 25, 2014

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Residential Tenancy Branch

