



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 090868 BC 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 male landlord (the landlord) submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 24, 2014, he sent the tenant the Notice of Direct Request Proceeding by registered mail. He also provided a witnessed statement regarding the placement of the Notice under the tenant's door at 2:18 p.m. on July 24, 2014. I note that service by placing documents under a door is not one of the allowed ways of serving documents pursuant to section 89 of the *Act*. However, the landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm the registered mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on July 29, 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:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on March 1, 2013, indicating a monthly rent of \$760.00 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 at 6:30 p.m. on July 4, 2014, with a stated effective vacancy date of July 14, 2014, for \$785.00 in unpaid rent. The landlord also submitted a Proof of Service document regarding the 10 Day Notice in which the tenant personally signed that he had received the 10 Day Notice as declared by the landlord.

In accordance with sections 88 and 90 of the *Act*, the tenant was served with this 10 Day Notice as declared by the landlord. 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 landlord maintained that the tenant failed to pay the outstanding rent for July 2014. 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 landlord.

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*. In making this decision, I note that the only amount claimed by the landlords in their application for dispute resolution was the \$760.00 in monthly rent identified as owing from July 2014.

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, July 14, 2014. Therefore, I find that the landlords are entitled to an Order of Possession and a monetary Order of \$760.00 for unpaid rent owing from July 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 \$760.00 for rent owed for July 2014. 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: August 06, 2014

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Residential Tenancy Branch

