



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Kandola Ventures INC.  
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 and witnessed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 1, 2014, the landlord handed Tenant GCP the Notice of Direct Request Proceeding. Based on the written submissions of the landlord and in accordance with section 89(2)(a) and (c) of the *Act*, I find that both tenants have been served with the Direct Request Proceeding documents in which the landlord notified both tenants that the landlord was seeking an end to this tenancy and an Order of Possession.

Based on the landlord's written submission, I find that only Tenant GCP has been served with notice of the landlord's intention to seek a monetary Order in accordance with section 89(1) of the *Act*. I find that the other tenant, Tenant DRP, has not been served with notice of the landlords' application to seek a monetary Order for unpaid rent. I dismiss this portion of the landlords' application naming Tenant DRP as a Respondent without leave to reapply.

### 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 against Tenant GCP pursuant to section 67 of the *Act*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to Tenant GCP;
- A copy of a residential tenancy agreement which was signed by the landlords and the tenants on January 10, 2012, indicating a monthly rent of \$900.00 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) posted on the tenants' door on July 3, 2014, with a stated effective vacancy date of July 14, 2014, for \$1,350.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the tenants failed to pay all outstanding rent was served by posting the 10 Day Notice to the tenants' door at 9:00 a.m. on July 3, 2014. In accordance with sections 88 and 90 of the *Act*, the tenants were deemed served with this 10 Day Notice on July 6, 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 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 corrected effective date of the 10 Day Notice, July 16, 2014.

Therefore, I find that the landlords are entitled to an Order of Possession. I also find that the landlords are also entitled to a monetary Order of \$1,350.00 against Tenant GCP for unpaid rent owing from June and 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 against Tenant GCP in the amount of \$1,350.00 for rent owed for June and July 2014. The landlords are provided with these Orders in the above terms and Tenant GCP must be served with **this Order** as soon as possible. Should Tenant GCP 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.

I dismiss the landlords' application for a monetary Order against Tenant DRP without leave to reapply.

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 08, 2014

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Residential Tenancy Branch

