



# 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 Landlords for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 27, 2014, the Landlord served the Tenant by registered mail. Canada Post receipts were provided in the Landlords' evidence. Based on the written submissions of the Landlords, I find that the Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on September 1, 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 Landlords:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of the Landlord's Application for Direct Request and the Monetary Order Worksheet indicating that \$375.00 was outstanding for August 15, 2014 rent;
- A copy of a residential tenancy agreement which was signed by all parties for a month to month tenancy that commenced on July 15, 2014, for the monthly rent of \$750.00 payable on the 1st and 15<sup>th</sup> of each month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 18, 2014, with an effective vacancy date listed as August 25, 2014, due to \$375.00 in unpaid rent that was due on August 15, 2014.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on August 18, 2014 at 9:30 p.m. when it was hand delivered personally to the Tenant, 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 Landlords. The notice was received by the Tenant on August 18, 2014, and the effective date of the notice is August 28, 2014, 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 Landlords an Order of Possession.

**Monetary Order** – The evidence supports that the Tenant failed to pay the rent that was due on August 15, 2014, in violation of section 26 of the *Act* which provides that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I approve the Landlords' request for a Monetary Order for **\$375.00**.

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

### Conclusion

The Landlords have been granted an Order of Possession effective **Two (2) Days after service 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 Landlords have been awarded a Monetary Order in the amount of **\$375.00**. 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: September 02, 2014

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Residential Tenancy Branch

