



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to subsection 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. The landlords did not apply for a monetary award at this time.

The landlords submitted signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on 17 October 2014, the landlords sent each of the tenants the Notices of Direct Request Proceeding by registered mail. The landlords provided a copy of the Canada Post customer receipts containing the tracking numbers to confirm this mailing. Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the Act, I find that the tenants have been deemed served with the Direct Request Proceeding documents on 22 October 2014, the fifth day after their registered mailing.

### Issues to be Decided

Are the landlords entitled to an order of possession for unpaid rent pursuant to section 55 of the Act?

### Background and Evidence

The landlords submitted the following evidentiary material:

- copies of the Proofs of Service of the Notices of Direct Request Proceeding served to each of the tenants;
- a copy of a residential tenancy agreement which was signed by the landlords and the tenants on 7 February 2014, indicating a monthly rent of \$600.00 due on the 1st day of the month for a tenancy commencing on 1 February 2014;
- a copy of a receipt for a \$300 payment received 24 September 2014 with the notation “Use & Occupancy Only”; and

- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on the tenants' door at 2 September 2014, with a stated effective vacancy date of 15 September 2014, for \$750.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenants were served by posting the 10 Day Notice to the tenants' door on 2 September 2014. This posting was witnessed. In accordance with sections 88 and 90 of the Act, the tenants were deemed served with this 10 Day Notice on 5 September 2014, three days after its posting.

The 10 Day 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 10 Day Notice within five days from the date of service.

#### Analysis

I have reviewed all documentary evidence and accept the tenants have been deemed served with 10 Day Notice 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 five days granted under subsection 46(4) of the Act.

Based on the foregoing, I find that tenants are conclusively presumed under subsection 46(5) of the Act to have accepted that the tenancy ended on the effective date of the 10 Day Notice, 15 September 2014.

Therefore, I find that the landlords are entitled to an order of possession.

#### Conclusion

I grant an order of possession to the landlords effective **two days after service of this order** on the tenant(s). 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: October 27, 2014

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Residential Tenancy Branch

