



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.  
and [tenant name suppressed to protect privacy]

## **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 Landlord for an Order of Possession for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 1, 2014 the Landlord served each named Respondent with the Notice of Direct Request Proceeding by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlord, I find that each Tenant was deemed served with the Direct Request hearing documents on October 6, 2014, five days after they were mailed, in accordance with section 90 of the Act.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each named Tenant listing the Tenants' names
- A copy of the Landlord's Application for Direct Request listing the Tenants' names
- the Monetary Order Worksheet indicating the Landlord is seeking \$900.00 in unpaid rent due to an error on the 10 Day Notice listing the amount owed is \$900.00 despite rent being \$925.00;
- A copy of a residential tenancy agreement displaying the three tenants' names on the first page as: The signature page displays the Tenants' names as clearly signed his surname as being ;

- The tenancy agreement is for a 6 month fixed term tenancy that began on June 11, 2014, for the monthly rent of \$925.00 due on the 1<sup>st</sup> of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent listing the Tenants' names as, and was issued on, September 6, 2014, with an effective vacancy date listed as September 16, 2014, due to \$900.00 in unpaid rent that was due on September 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on September 6, 2014, at 2:00 p.m. when it was posted to their door, in the presence of a witness.

### Analysis

The Direct Request procedure is based upon written submissions only and requires that the submissions be sufficiently clear, valid and supported by evidence in order to succeed.

As noted above in the introduction the Landlords have filed seeking an Order of Possession and a Monetary Order against three Tenants. I find the evidence with respect to the claims against to be lacking as their surnames are spelled three different ways on the various documents which include the Landlord's application, the first and last page of the tenancy agreement, the 10 Day Notice, and the proof of service documents. That being said the third co-Tenant's name, has been spelled correctly on all documents and she was also a signatory to the tenancy agreement.

The *Residential Tenancy Policy Guideline # 13* defines co-tenants as two or more tenants who rent the same property under the same tenancy agreement. Co-tenants have equal rights under the tenancy and are jointly and severally responsible for any debts or damages relating to the tenancy. That means the landlord can file a claim against any one of the tenants and recover the full amount owed from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Based on the above, I find this Direct Request Application may proceed against, and the claim against the other two Tenants is dismissed, without leave to reapply.

I accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to be received by the Tenant on September 9, 2014, three days after it was posted to the door, and the effective date of the notice is September 19, 2014, pursuant to section 46 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 Landlord an Order of Possession.

The evidence supports that the Tenant failed to pay the rent that was due on September 1, 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 Landlord's request for a Monetary Order for **\$900.00**.

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

### Conclusion

The Landlord has 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 Landlord has been awarded a Monetary Order in the amount of **\$900.00** against . 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.

The claims against are HEREBY DISMISSED, 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: October 07, 2014

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Residential Tenancy Branch