



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT SERVICES  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      OPR & MNR

### Introduction

This matter was conducted by way of 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 landlord for an Order of Possession and a Monetary Order due to unpaid rent.

The Direct Request process is a mechanism that allows the landlord to apply for an expedited decision without a participatory hearing. As a result, the landlord must follow and submit documentation **exactly** as the *Act* prescribes and there can be no omissions or deficiencies within the written submissions that are left open to interpretation or inference.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 20, 2014 the landlord served the tenants with the Notice of Direct Request Proceeding by registered mail. Section 90 of the *Act* determines that a document is deemed to have been served on the fifth day after it was sent.

Based on the written submissions of the landlord, I find that the tenants have been served with the Dispute Resolution Direct Request Proceeding documents.

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the landlord on October 08, 2013 and by the tenants on October 10, 2013 for a tenancy beginning October 10, 2013 for the monthly rent of \$835.00 due on the 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, November 02, 2014 with an effective vacancy date of November 12, 2014 due to \$845.00 in unpaid rent.
- A Monetary Order worksheet which states that the tenants paid \$363.00 on November 13.00 leaving an outstanding balance of \$482.00.

Documentary evidence filed by the landlord indicates that the tenants had failed to pay the full rent owed for the month of November and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenants' rental unit on November 02, 2014 and therefore is deemed served three days later.

The Notice states that the tenants had five days to pay the rent 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.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with Notice to End Tenancy as declared by the landlord. The Notice is deemed to have been received by the tenants on November 05, 2014 and the effective date of the Notice is amended to November 15, 2014 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*; however, the tenancy agreement states

that rent is \$835.00 per month and the landlord has stated that rent of \$845.00 was outstanding on November 01, 2014 and that \$363.00 was paid leaving a balance of \$482.00. If rent has been legally increased since the tenancy started the landlord is required to provide evidence of the rent increase notice or evidence of why the rent is more than that shown on the tenancy agreement. As the landlord has failed to show that rent is owed of \$482.00 I must limit the landlord's claim to the amount shown on the tenancy agreement of \$835.00 which then leaves an unpaid balance of \$472.00.

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 effective date of the Notice.

#### Conclusion

I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*, effective **two days after service on the tenant**. This Order must be served on the tenants and may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation, pursuant to section 67 of the *Act*, in the amount of **\$472.00** for rent owed. This Order must be served on the tenants and may be filed in the Provincial Court (Small Claims) 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: November 27, 2014

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Residential Tenancy Branch

