



# 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 December 10, 2014, the Landlords served each Tenant by registered mail. Canada Post receipts were provided in the Landlords' evidence. Based on the written submissions of the Landlords, I find that each Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on December 15, 2014, five days after they were mailed, pursuant to section 90 of the Act.

### Issue(s) to be Decided

Are the Landlords 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 Tenant;
- A copy of the Landlord's Application for Direct Request and the Monetary Order Worksheet listing a claim of unpaid rent of \$1,070.00 indicating the Tenants made a payment of \$850.00 on November 24, 2014 after the 10 Day Notice was served;
- A copy of a residential tenancy agreement which was signed by all parties for a month to month tenancy that began on September 1, 2014, for the monthly rent of \$960.00 which is payable on the first of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, November 22, 2014, with an effective vacancy date of December 7, 2014, due to \$1,920.00 in unpaid rent.

Documentary evidence filed by the Landlords indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on November 22, 2014, by registered mail. The

Landlord submitted a copy of the Canada Post tracking website which indicates the 10 Day Notice was received by the Tenants on November 25, 2014.

### Analysis

#### **Order of Possession**

I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end tenancy as declared by the Landlords. The notice was received by the Tenants on November 25, and the effective date of the notice is December 5, 2014, pursuant to section 46 of the *Act*. 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 effective date of the Notice and I hereby grant the Landlords an Order of Possession.

#### **Monetary Order**

The evidence supports that the Tenants have failed to pay rent in accordance with section 26 of the *Act* which stipulates that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I find the Landlord has met the burden of proof and I award him a Monetary Order for **\$1,070.00** (\$1,920.00 - \$850.00).

### Conclusion

The Landlords have been granted an Order of Possession effective **Two (2) Days after service upon the Tenants**. In the event that the Tenants do 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 **\$1,070.00**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do 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: December 16, 2014

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Residential Tenancy Branch

