



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WESTSEA CONSTRUCTION LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### 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 landlord for an order of possession based on unpaid rent and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that at 1725 on 15 January 2015, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail. The landlord provided a copy of the Canada Post customer receipt containing the tracking number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the Act, I find that the tenant has been deemed served with the Direct Request Proceeding documents on 20 January 2015, the fifth day after their registered mailing.

### Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent pursuant to section 55 of the Act?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the Act?

### Background and Evidence

The landlord submitted the following evidentiary material:

- a copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;

- a copy of a residential tenancy agreement which was signed by the landlord and the tenant on 20 May 2009, indicating a monthly rent of \$1,100.00 due on the 1st day of the month for a tenancy commencing on 1 June 2009;
- a Monetary Order Worksheet showing the rent owing and paid during this tenancy: January Rent of \$1,100.00; and
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on the tenant's door at 1400 on 5 January 2015, with a stated effective vacancy date of 16 January 2015, for \$1,100.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant was served by posting the 10 Day Notice to the tenant's door at 1400 on 5 January 2015. This posting was witnessed. In accordance with sections 88 and 90 of the Act, the tenant was deemed served with this 10 Day Notice on 8 January 2015, three days after its posting.

The 10 Day Notice states that the tenant 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 tenant 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 tenant has been deemed served with 10 Day Notice as declared by the landlord.

I accept the evidence before me that the tenant has 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 the tenant is conclusively presumed under subsection 46(5) of the Act to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, 18 January 2015.

Therefore, I find that the landlord is entitled to an order of possession and a monetary order of \$1,100.00 for unpaid rent owing from January 2015.

### Conclusion

I grant an order of possession to the landlord 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.

Pursuant to section 67 of the Act, I find that the landlord is entitled to a monetary order in the amount of \$1,100.00 for rent owed for January 2015. The landlord is provided with these orders in the above terms and the tenant(s) must be served with **this order** as soon as possible. Should the tenant(s) fail to comply with these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

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: January 20, 2015

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Residential Tenancy Branch

