



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded by way of an *ex parte* 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 based on unpaid rent and a monetary Order.

The landlord submitted two signed Proof of Service of the Notice of Direct Request Proceeding forms which declare that on February 5, 2015, at 6:00 PM, the landlord served the above-named tenants with the Notice of Direct Request Proceeding by way of personal service via hand-delivery. The personal service was confirmed as the tenants acknowledged receipt of the Notice of Direct Request Proceeding by signing the Proof of Service forms. The Proof of Service forms also establish that the service was witnessed by “LN” and a signature for LN is included on the forms.

Based on the written submissions of the landlord, and in accordance with section 89 of the *Act*, I find that the tenants have been duly served with the Direct Request Proceeding documents on February 5, 2015.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- Two copies of the Proof of Service of the Notice of Direct Request Proceeding served to the tenants;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenants, indicating a monthly rent of \$1000.00 due on the 1st day of the month for a tenancy commencing on November 1, 2014;

- A Monetary Order Worksheet showing the rent owing during the portion of this tenancy in question, on which the landlord establishes that there remains rent owing for January 2015;
- Copies of email correspondence between the “tenant AL” and the landlord;
- A document titled “Details of the Dispute” in which the landlord claims that the tenants failed to pay rent in full for January 2015 and that the tenants provided partial payment of \$340.00 on January 4, 2014, resulting in unpaid rental arrears for January 2015 in the amount of \$660.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated January 27, 2015 (the Notice), which the landlord states was served to the tenants on January 27, 2015 for \$660.00 in unpaid rent due on January 1, 2015, with a stated effective vacancy date of January 31, 2015; and
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice to the “tenant RS” by way of personal service via hand-delivery at 10:45 AM on January 27, 2015. The Proof of Service establishes that the service was witnessed by “LN” and a signature for LN is included on the form.

The Notice restates section 46(4) of the Act which provides that the tenants had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenants did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenants did not pay the rental arrears.

### Analysis

I have reviewed all documentary evidence and find that in accordance with section 88 of the Act the tenants were duly served with the Notice on January 27, 2015.

I find that the tenants were obligated to pay monthly rent in the amount of \$1000.00, as established in the tenancy agreement. I accept the evidence before me that the tenants have failed to pay the full amount of rent owing for January 2015 and provided only partial payment of rent in the amount of \$340.00, resulting in outstanding rental arrears of \$660.00 for rent owed for January 2015. I find that the tenants received the Notice on January 27, 2015. I accept the landlord’s undisputed evidence and find that the tenant did not pay the rent owed in full within the 5 days granted under section 46 (4) of the Act and did not apply to dispute the Notice within that 5-day period.

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 corrected effective date of the Notice, February 6, 2015.

Therefore, I find that the landlord is entitled to an Order of Possession based on the Notice served to the tenants for unpaid rent owing for 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.

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: February 12, 2015

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Residential Tenancy Branch

