



# 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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 14, 2015, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Section 90 of the *Act* determines that a document served in this manner is deemed to have been received 5 days after service.

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 February 19, 2015, the fifth day after their registered mailing.

### 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*?

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 September 23, 2012, indicating a monthly rent of \$725.00 due on

the first day of the month for a tenancy commencing on October 1, 2012. There is an amendment on the tenancy agreement which established that as of July 1, 2013, the monthly rent would be reduced to \$700.00;

- A Monetary Order Worksheet showing the rent owing during the portion of this tenancy in question, on which the landlord establishes a monetary claim in the amount of \$700.00 for rent owing for February 2015;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated February 2, 2015, which the landlord states was served to the tenant on February 2, 2015, for \$700.00 in unpaid rent due on February 1, 2015, with a stated effective vacancy date of February 17, 2015; and
- A copy of the Proof of Service of the Notice showing that the landlord's agent served the Notice to the tenant by way of registered mail on February 2, 2015. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing.

The Notice restates section 46(4) of the Act which provides that the tenant 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 tenant did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

### Analysis

I have reviewed all documentary evidence provided by the landlord(s). Section 90 of the *Act* provides that because the Notice was served by registered mail, the tenant is deemed to have received the Notice five days after its mailing. In accordance with sections 88 and 90 of the *Act*, I find that the tenant is deemed to have received the Notice on February 7, 2015, five days after its mailing.

I find that on the tenancy agreement, the name of the city in which the rental unit is located is not identified. However, this deficiency is corrected by virtue of the fact that the city is listed on the supporting documents included with the application, such as the Proof of Service of the Notice and Proof of Service of the Notice of Direct Request Proceeding. The name of the city is also included on the Notice itself, as well as the application for dispute resolution by Direct Request, and on the Condition Inspection Report which was signed by both the landlord and tenant. Accordingly, I find that any deficiency that may arise by not having the name of the city identified on the tenancy agreement is addressed by the consistency with which the complete address of the rental unit is identified in the supporting documents included as part of this application.

I find that the tenant was obligated to pay monthly rent in the amount of \$700.00, as established in the tenancy agreement. I accept the evidence before me that the tenant has failed to pay \$700.00 in rent for the month of February 2015. I find that the tenant

received the Notice on February 7, 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 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, February 17, 2015.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of \$700.00 for unpaid rent owing for February 2015, as of February 13, 2015.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. 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 \$700.00 for rent owed for February 2015, as of February 13, 2015. The landlord is provided with these Orders in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 20, 2015

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Residential Tenancy Branch

