



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Dorset Realty Group  
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 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 10:40 am, the landlord served the above-named tenants with the Notice of Direct Request Proceeding by way of witnessed personal service via hand-delivery. The Proof of Service forms establish that service for each tenant was witnessed by “HK” and a signature for HK 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*?

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 “tenant MD” on October 11, 2014, indicating a monthly rent of \$1,550.00 due on the 1st day of the month for a tenancy commencing on October 22, 2014;

- A Monetary Order Worksheet showing the rent owing and paid during the portion of this tenancy in question, on which the landlord establishes a monetary claim in the amount of \$2,600.00 for unpaid rent. The landlord indicates that partial payment of \$500.00 was received in December 2014 and \$1,050.00 unpaid rent remains owing for December 2014 and \$1,550.00 unpaid rent remains owing for January 2015, which results in an unpaid rent amount of \$2,600.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated January 5, 2015 (the Notice) which the landlord states was served on the tenants on January 5, 2015 for \$2,600.00 in unpaid rent due on January 1, 2015, with a stated effective vacancy date of January 30, 2015; and
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice to the tenants by way of posting it to the door of the rental unit on January 5, 2015. The Proof of Service establishes that the service was witnessed by "RD" and a signature for RD 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 tenant did not pay the rental arrears.

### Analysis

Section 90 of the *Act* provides that because the Notice was served by posting the Notice to the door of the rental unit, the tenants are deemed to have received the Notice three days after its posting. I have reviewed all documentary evidence and find that the tenants are deemed to have received the Notice on January 8, 2015, three days after its posting.

I find that the tenants were obligated to pay monthly rent in the amount of \$1,550.00, as established in the tenancy agreement. I accept the evidence before me that the tenants have failed to pay \$1,050.00 in rent for the month of December 2014 and \$1,550.00 in rent for the month of January 2015. I find that the tenants received the Notice on January 8, 2015. I accept the landlord's undisputed evidence and find that the tenants did not pay the total 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 effective date of the 10 Day Notice, January 30, 2015.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of \$2,600.00 for unpaid rent owing for December 2014 and January 2015, as of February 2, 2015. I additionally find that although there are two tenants listed on the

tenancy agreement, only tenant MD signed the tenancy agreement, and will therefore grant Orders only against tenant MD.

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 \$2,600.00 for rent owed for December 2014 and January 2015, as of February 2, 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 6, 2015

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Residential Tenancy Branch

