



# 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 March 18, 2015, the landlord's agent posted the Notice of Direct Request Proceeding to the door of the rental unit. The landlord's agent had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service. Based on the written submission of the landlord and in accordance with sections 89(2) and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on March 21, 2015, the third day after their posting.

### 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 tenants;
- A copy of a residential tenancy agreement which was signed by the landlord's agent and the tenant on October 23, 2014, indicating a monthly rent of \$700.00,

due on the first day of the month for a tenancy commencing on November 01, 2014;

- A Monetary Order Worksheet showing the rent owing and paid during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 03, 2015, and personally handed to the tenant on March 03, 2015, with a stated effective vacancy date of March 13, 2015, for \$850.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally handed to the tenant at 7:51 p.m. on March 03, 2015. The landlord had the tenant sign the Proof of Service Notice to End Tenancy to confirm personal service. 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.

### Analysis

I have reviewed all documentary evidence and in accordance with section 88 the *Act*, I find that the tenant was duly served with the 10 Day Notice on March 03, 2015.

I find that the tenant was obligated to pay the monthly rent in the amount of \$700.00, as per the tenancy agreement.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46(4) of the *Act* and did not dispute the 10 Day 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 corrected effective date of the 10 Day Notice, March 17, 2015.

Section 89(1) of the *Act* does not allow for the Notice of Direct Request Proceeding to be posted on the door of the rental unit.

Section 89(2) of the *Act* does allow for the Notice of Direct Request Proceeding to be posted on the door of the rental unit, only when considering the issuance of an Order of Possession for the landlord.

Due to the fact that the Notice of Direct Request documents were posted to the door of the rental unit, I dismiss the monetary portion of the landlord's application, with leave to reapply, as only the service requirement of section 89(2) of the *Act* has been met.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for March 2015 as of March 18, 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.

I dismiss the landlord's application requesting a monetary Order with leave to reapply.

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: March 23, 2015

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Residential Tenancy Branch

