



# 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 June 15, 2015, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 89, I find that the tenant has been duly served with the Direct Request Proceeding documents on June 15, 2015, the day it was personally served to them.

### 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;
- Six copies of notes from the landlord to the tenant regarding rent and utilities owing;

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on August 15, 2014, indicating a monthly rent of \$750.00 due on the first day of the month for a tenancy commencing on August 15, 2014;
- A Monetary Order Worksheet showing the rent and utilities 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 June 06, 2015, and personally handed to the tenant on June 06, 2015, with a stated effective vacancy date of June 17, 2015, for \$2,550.00 in unpaid rent and \$862.83 in unpaid utilities.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally handed to the tenant at 10:00 p.m. on June 06, 2015. 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 of the *Act*, I find that the tenant was duly served with the 10 Day Notice on June 06, 2015.

I find that the tenant was obligated to pay the monthly rent in the amount of \$750.00, 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 effective date of the 10 Day Notice, June 17, 2015.

Direct request proceedings are *ex parte* proceedings. In an *ex parte* proceeding, the opposing party is not invited to participate in the hearing or make any submissions. As there is no ability of the tenants to participate, there is a much higher burden placed on landlords in these types of proceedings than in a participatory hearing. This higher burden protects the procedural rights of the excluded party and ensures that the natural justice requirements of the Residential Tenancy Branch are satisfied.

I find that the landlord has not provided any copies of the bills associated with the written demand for unpaid utilities to substantiate the amount of utilities owing.

For this reason, the portion of the landlord's monetary claim regarding unpaid utilities is dismissed, with leave to reapply

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order in the amount of \$2,550.00, the amount of rent claimed by the landlord, for unpaid rent owing for March 2015, April 2015, May 2015 and June 2015 as of June 15, 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 \$2,550.00 for rent owed for March 2015, April 2015, May 2015 and June 2015 as of June 15, 2015. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I dismiss the landlord's claim for unpaid utilities, 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: June 17, 2015

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Residential Tenancy Branch

