



# 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 landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 10, 2015, the landlords personally served tenant R.S. the Notice of Direct Request Proceeding. The landlords submitted a second signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 11, 2015, the landlords personally served tenant A.L. the Notice of Direct Request Proceeding. The landlords provided witnessed documentary evidence to confirm this service. Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been served with the Direct Request Proceeding documents on July 11, 2015.

### Issue(s) to be Decided

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

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

### Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proofs of Service of the Notices of Direct Request Proceeding served to the tenants;
- A copy of a residential tenancy agreement which was signed by the landlords and the tenants on March 27, 2015, indicating a monthly rent of \$1,350.00, due on the first day of the month for a tenancy commencing on April 7, 2015;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy. The Worksheet shows rent in the amount of \$1,350.00 that was due on May 1, 2015, June 1, 2015 and July 1, 2015 for a total of \$4,050.00. There were 4 payments in the amount of \$400.00, making the total rent outstanding \$2,450.00
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 3, 2015, and personally served to the tenants on July 3, 2015, with a stated effective vacancy date of July 13, 2015, for \$2,450.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was personally served to the tenants at 11:00 pm on July 3, 2015. The 10 Day Notice states that the tenants 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 sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on July 3, 2015.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,350.00, as per the tenancy agreement.

I accept the evidence before me that the tenants have 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 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, July 13, 2015.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$2,450.00, the amount claimed by the landlords, for unpaid rent owing for May 2015, June 2015 and July 2015 as of July 9, 2015.

### Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenants. Should the tenants 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 landlords are entitled to a Monetary Order in the amount of \$2,450.00 for rent owed for May 2015, June 2015 and July 2015. The landlords are provided with this Order in the above terms and the tenants must be served with **this Order** as soon as possible. Should the tenants 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.

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: July 13, 2015

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Residential Tenancy Branch

