



# 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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on July 10, 2015, the landlords personally served the tenants the Notices of Direct Request Proceeding. The landlords provided signed and witnessed documentary evidence to confirm 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 10, 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 August 21, 2011, indicating a monthly rent of \$800.00, due on the first day of the month for a tenancy commencing on September 01, 2011;
- A letter from the landlord indicating the tenant volunteered to start paying a rent of \$825.00 a month as of September 2014 as the rent had not been increased.
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 2, 2015, and personally served to the tenants on July 2, 2015, with a stated effective vacancy date of July 11, 2015, for \$825.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was personally served to the tenants at 9:10 am on July 2, 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 served with the 10 Day Notice on July 2, 2015.

I find that the tenants were obligated to pay the monthly rent in the amount of \$800.00, as per the tenancy agreement.

I also note that the amount of rent on the tenancy agreement does not match the amount of rent being claimed on the 10 Day Notice. Section 42 (3) of the *Act* states a notice of rent increase must be in the approved form. As the landlord has not provided a Notice of Rent Increase form showing the rent being increased from \$800.00 to \$825.00, I am unable to consider the increased rental amount in the landlords' request for a Monetary Order.

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 corrected date of the 10 Day Notice, July 12, 2015.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$800.00 for unpaid rent owing for July 2015 as of July 8, 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 \$800.00 for rent owed for 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

