



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### 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.

The landlord submitted two signed Proof of Service of the Notice of Direct Request Proceedings which declares that on October 28, 2015, the landlord sent the tenants the Notices of Direct Request Proceeding by registered mail to the rental unit. The landlord provided copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on November 02, 2015, the fifth day after their registered mailing.

### 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*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- Two copies of the Proofs 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 Tenant on September 01, 2015, indicating a monthly rent of \$1,695.00, due on the first day of the month for a tenancy commencing on September 01, 2015. A tenancy agreement is an instrument of the landlord, and, once endorsed by the tenant, the landlord's failure to sign their own agreement does not invalidate it;

- A copy of a letter, from the landlord to the tenant, giving notice to inspect the unit;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy. The Monetary Order Worksheet notes that the rent was reduced due to the tenants moving in late; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 09, 2015, and personally handed to the tenants on October 10, 2015, with a stated effective vacancy date of October 20, 2015, for \$1,200.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice personally handed to the tenants at 10:00 a.m. on October 10, 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 section 88 of the *Act*, I find that the tenants were duly served with the 10 Day Notice on October 10, 2015.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,695.00 as per the tenancy agreement, but only \$1,200.00 for October 2015 as per the note from the landlord on the Monetary Order Worksheet.

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, October 20, 2015.

I find that Tenant S.F. has not signed the tenancy agreement and is not jointly and severally liable for the responsibilities and obligations contained in the tenancy agreement. The landlord is still entitled to an Order of Possession for Tenant Q.D. as Tenant Q.D. has not met their obligations towards the tenancy agreement and this Order of Possession requires all tenants and persons, including Tenant S.F., to vacate the rental unit.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for October 2015 as of October 28, 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.

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: November 05, 2015

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Residential Tenancy Branch

