



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

OPR, MNR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a monetary order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 18, 2016 the Tenant was personally served with the Notice of Direct Request Proceeding documents. The Tenant appears to have signed the Proof of Service of the Notice of Direct Request Proceeding to acknowledge receipt of these documents. Based on the written submissions of the Landlord, I find the Tenant has been served with the Direct Request Proceeding documents in accordance with section 89 of the *Act*.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent?

### Background and Evidence

I have reviewed the following evidence submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement that appears to have been signed by the Tenant, which indicates that the tenancy began on February 15, 2015 and that the rent of \$525.00 is due by the first day of each month;
- A Direct Request Worksheet that indicates rent has not been paid for December of 2015 or January of 2016;
- A copy of a Ten Day Notice to End Tenancy for Unpaid Rent which was signed by the Landlord but is not dated, which declares that the Tenant must vacate the rental unit by January 16, 2016 unless the Tenant pays the rent within five days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice declares that the Tenant owes rent, in the amount of \$1,050;

- A copy of Proof of Service of the Ten Day Notice to End Tenancy in which one of the Landlords named on the tenancy agreement declares that the Landlord personally served the Notice to the Tenant on January 06, 2016 in the presence of the other Landlord named on the tenancy agreement, who also signed the Proof of Service.

### Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary I find that the Tenant entered into a tenancy agreement that required the Tenant to pay monthly rent of \$550.00 by the first day of each month and that the Tenant had not paid rent for December of 2015 or January of 2016 by the time the Landlord filed this Application for Dispute Resolution. I have no evidence to show that the Tenant paid the outstanding rent since the Application for Dispute Resolution was filed and therefore I find that the Tenant owes rent in the amount of \$1,050.00.

Section 46 of the *Act* authorizes a landlord to end a tenancy if rent is not paid when it is due providing proper notice to end the tenancy is served. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a Ten Day Notice to End Tenancy was personally served to the Tenant on January 06, 2016.

Section 46(2) of the *Act* stipulates that a notice to end tenancy served pursuant to section 46 of the *Act* must comply with section 52 of the *Act*. Section 52(a) of the *Act* stipulates that to be effective a notice to end tenancy must be signed and dated by the landlord or the tenant giving the notice. I find that the Ten Day Notice to End Tenancy that is the subject of these proceedings does not comply with section 52(a) of the *Act* because it is not dated and that it is, therefore, not effective.

As the Ten Day Notice is not effective because it has not been dated, I dismiss the Landlord's application for an Order of Possession. The Landlord retains the right to end this tenancy pursuant to section 46 of the *Act* by serving another Ten Day Notice to End Tenancy if the rent remains unpaid.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$1,050.00, and I grant the Landlord a monetary Order for that amount. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: January 23, 2016

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Residential Tenancy Branch

