



# 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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 10, 2016, at 10:15 PM, the landlord “QT” served the tenant “TM” with the Notice of Direct Request Proceeding by way of personal service via hand-delivery. The personal service was confirmed as the tenant “TM” acknowledged receipt of the Notice of Direct Request Proceeding by signing the Proof of Service form. The Proof of Service form also establishes that the service was witnessed by “YC” and a signature for “YC” is included on the form.

Based on the written submissions of the landlords, and in accordance with section 89 of the *Act*, I find that the tenant “TM” has been duly served with the Direct Request Proceeding documents on March 10, 2016.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 11, 2016, at 7:10 PM, the landlord “RD” served the tenant “DB” with the Notice of Direct Request Proceeding by way of personal service via hand-delivery. The personal service was confirmed as the tenant “DB” acknowledged receipt of the Notice of Direct Request Proceeding by signing the Proof of Service form. The Proof of Service form also establishes that the service was witnessed by “QT” and a signature for “QT” is included on the form.

Based on the written submissions of the landlords, and in accordance with section 89 of the *Act*, I find that the tenant “QT” has been duly served with the Direct Request Proceeding documents on March 11, 2016.

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:

- Two copies of the Proof 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 one of the landlords on May 03, 2015, and signed by the tenants on May 02, 2015, indicating a monthly rent of \$2,600.00 due on the first day of the month for a tenancy commencing on June 01, 2015;
- A Monetary Order Worksheet showing the rent owing and paid during the portion of this tenancy in question, on which the landlords establish a monetary claim in the amount of \$6,000.00 for outstanding rent, comprised of the balance of unpaid owing for the period of November 2015 to February 2016. The landlords indicate that partial payments were provided by the tenants as follows: \$700.00 provided on November 22, 2015, \$700.00 provided on December 08, 2015, \$1,500.00 provided in January 2016, and \$1,500.00 provided on February 03, 2016;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated February 21, 2016, which the landlords state was served to the tenants on February 21, 2016 for \$6,000.00 in unpaid rent due on February 15, 2016, with a stated effective vacancy date of March 01, 2016; and
- A copy of the Proof of Service of the Notice showing that the landlord "RD" served the Notice to the tenants by way of personal service via hand-delivery to the tenant "TM" on February 21, 2016. The Proof of Service form establishes that the service was witnessed by "QT" and a signature for "QT" is included on the form.

The Notice restates section 46(4) of the *Act* which provides that the tenants had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenants did not apply to dispute the Notice within five days from the date of service and the landlords alleged that the tenants did not pay the rental arrears.

### Analysis

I have reviewed all documentary evidence and find that in accordance with section 88 of the *Act* the tenants were duly served with the Notice on February 21, 2016.

I find that the tenants were obligated to pay monthly rent in the amount of \$2,600.00, as established in the tenancy agreement. I accept the evidence before me that the tenants have failed to pay outstanding rental arrears in the amount of \$6,000.00, comprised of the balance of unpaid owing for the period of November 2015 to February 2016. I find that the tenants received the Notice on February 21, 2016. I accept the landlord's undisputed evidence and find that the tenant did not pay the rent owed in full within the five days granted under section 46 (4) of the *Act* and did not apply to dispute the Notice within that five-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 effective date of the Notice, March 02, 2016.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary Order of \$6,000.00, comprised of the balance of unpaid owing for the period of November 2015 to February 2016.

### Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant(s). 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 landlords are entitled to a monetary Order in the amount of \$6,000.00, comprised of the balance of unpaid owing for the period of November 2015 to February 2016. The landlords are provided with these Orders in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: March 14, 2016

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Residential Tenancy Branch

