



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 55; and
- a monetary order for unpaid rent, pursuant to section 67.

The tenant did not attend this hearing, which lasted approximately 17 minutes. The landlord and her agent, LB (collectively "landlord") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord intended to call "witness LD" to testify at this hearing. Although witness LD attended the hearing, she did not testify because her testimony was not required.

### Previous Hearings

This matter was previously heard by an Adjudicator on July 25, 2016 and a "direct request decision" was issued on the same date. The proceeding was through the direct request process which is an ex-parte, non-participatory hearing based on the landlord's paper application only, and no submissions from the tenant. The direct request decision granted the landlord with a two-day order of possession and dismissed the landlord's monetary application with leave to reapply because the landlord did not properly serve the tenant with the direct request application.

The tenant applied for a review of the direct request decision and a new review hearing (this current hearing on September 30, 2016) was granted by an Arbitrator, pursuant to a review consideration decision, dated August 9, 2016. The tenant was required to serve the landlord with a copy of the review consideration decision, the notice of review hearing and the written evidence that she submitted with her review application.

The tenant did not attend this hearing to testify about service of the above required documents. The landlord confirmed receipt of the notice of review hearing from the tenant. The landlord confirmed receipt of the review consideration decision when she attended to retrieve it from a Residential Tenancy Branch ("RTB") location. The landlord said that she did not receive any documents from the tenant, including the review consideration decision, the tenant's written evidence from the review application or any additional evidence for this current hearing.

I find that although the landlord was not served directly by the tenant, she was sufficiently served under section 71(2)(c) of the *Act* with the review consideration decision from the RTB. Accordingly, I did not consider any written evidence from the tenant for this hearing as it was not served upon the landlord.

### Analysis

Rule 7.3 of the RTB *Rules of Procedure* provides as follows:

*7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

Section 82(3) of the *Act* states:

*Following the review, the director may confirm, vary or set aside the original decision or order.*

As the tenant did not appear at this hearing to provide evidence about her position, I confirm the decision of the Adjudicator, dated July 25, 2016.

At the outset of the hearing, the landlord confirmed that the tenant had already vacated the rental unit and that she did not require an order of possession.

The landlord confirmed that she understood that she had to file a new RTB application and serve the tenant with it, in order to pursue her monetary claim for unpaid rent.

### Conclusion

The direct request decision, dated July 25, 2016, issued by the Adjudicator, is confirmed.

The previous two-day order of possession, dated July 25, 2016, issued by the Adjudicator to the landlord against the tenant, is confirmed. This order is in full force and effect. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

As per the direct request decision, dated July 25, 2016, the landlord's application for a monetary order for unpaid rent is dismissed with leave to reapply.

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: October 04, 2016

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Residential Tenancy Branch