



# 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 21, 2016, the landlord posted the Notices of Direct Request Proceeding to the door of the rental unit. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceedings to confirm this service. Based on the written submissions of the landlord and in accordance with sections 89(2) and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on October 24, 2016, the third day after their posting.

### 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 landlord and the tenants on July 29, 2016, indicating a monthly rent of \$1,200.00, due on the first day of the month for a tenancy commencing on July 29, 2016;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 07, 2016, and sent by registered mail to the tenant on October 07,

2016, with a stated effective vacancy date of October 23, 2016, for \$2,475.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the 10 Day Notice was sent by registered mail to the tenant at 11:29 a.m. on October 07, 2016. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. 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 deemed served with the 10 Day Notice on October 12, 2016, five days after its mailing. I find that the tenants were obligated to pay the monthly rent in the amount of \$1,200.00 as per the tenancy agreement. 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 23, 2016. Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for September 2016 and October 2016 as of October 19, 2016.

### 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: October 27, 2016

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Residential Tenancy Branch