



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR 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 landlords for an Order of Possession based on unpaid rent and a monetary Order.

Landlord GC submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 15, 2016, the landlords sent the tenants the Notices of Direct Request Proceeding by registered mail. The landlord provided a copy of the Canada Post Customer Receipt 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 20, 2016, the fifth day after their registered mailing.

### 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 landlord submitted the following evidentiary material:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated November 3, 2016, and posted to the tenants’ door on November 3, 2016,

with a stated effective vacancy date of November 14, 2016, for \$825.00 in unpaid rent. The corrected effective date for this vacancy is November 17, 2016

- A copy of the Proofs of Service of the Notices of Direct Request Proceeding served to the tenants;
- A copy of a residential tenancy agreement signed by the landlords and the tenants on August 15, 2016, indicating a monthly rent of \$1,650.00, due on the first day of the month for a tenancy commencing on September 1, 2016; and
- A Direct Request Worksheet showing the rent owing and paid during the most recent period of this tenancy. The Direct Request Worksheet noted that \$825.00 of the \$1,650.00 remained unpaid for October 2016 as of November 15, 2016, the date of the landlords' application;

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants' door at 4:00 p.m. on November 3, 2016. The 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. The effective date for this notice to be deemed served is November 6, 2016.

### 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 November 6, 2016.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,650.00 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 the tenants to have conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, November 16, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order in the amount of \$825.00, the amount claimed by the landlord, for unpaid rent owing for October 2016.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant. Should the tenants 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 \$825.00 for rent owed for October 2016. The landlords are provided with this Order in the above terms and the tenants must be served with **this Order** as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: November 20, 2016

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Residential Tenancy Branch