



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CITY OF VANCOUVER  
and [tenant name suppressed to protect privacy]

## **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 landlord for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 15, 2016, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on December 20, 2016, the fifth day after their registered mailing.

### 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*?

Is the landlord 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 the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;

- A copy of a residential tenancy agreement which was signed by the landlord on December 8, 2015 and the tenant on December 12, 2015, indicating a monthly rent of \$375.00, due on the first day of the month for a tenancy commencing on November 1, 2008;
- A Monetary Order Worksheet noting that \$200.00 of the \$1,500.00 identified as owing in the 10 Day Notice was paid on December 2, 2016; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated December 2, 2016, and personally served to the tenant on December 2, 2016, with a stated effective vacancy date of December 31, 2016, for \$1,500.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally served to the tenant at 9:38 am on December 2, 2016. The 10 Day Notice states that the tenant 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 tenant was duly served with the 10 Day Notice on December 2, 2016.

I find that the tenant was obligated to pay the monthly rent in the amount of \$375.00, as per the tenancy agreement.

I note that the amount of rent on the tenancy agreement does not match the amount of rent being claimed on the 10 Day Notice. In order to claim for additional rent, the Monetary Order Worksheet must clearly show any additional months that the tenant still owes rent for in order to substantiate the landlord's claim for any monies over and above the amount of rent as shown on the tenancy agreement.

Therefore, I dismiss the landlord's application for a Monetary Order with leave to reapply.

However, I accept the evidence before me that the tenant has 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 tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy will end on the effective date of the 10 Day Notice, December 31, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing as of December 15, 2016.

### Conclusion

I grant an Order of Possession to the landlord effective **December 31, 2016, after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord's application for a Monetary Order 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: December 21, 2016

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Residential Tenancy Branch