



# 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 three signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on April 20, 2017, the landlord sent the tenants the Notices of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipts 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 April 25, 2017, 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*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- 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 which was signed by a landlord who is not the applicant, Tenant J.M., and Tenant J.P. on December 15, 2016, indicating a monthly rent of \$850.00, due on the first day of the month for a tenancy commencing on December 15, 2016;

- A copy of a letter showing the transfer of management responsibilities from the former landlord, who is named on the residential tenancy agreement, to the current landlord who is applying for dispute resolution;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated April 6, 2017, and personally served to the tenants on April 6, 2017, with a stated effective vacancy date of April 16, 2017, for \$425.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally served to the tenants at 5:00 pm on April 6, 2017. 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 section 88 of the *Act*, I find that the tenants were duly served with the 10 Day Notice on April 6, 2017.

Paragraph 12 (1) (b) of the Residential Tenancy Regulations establishes that a tenancy agreement is required to “be signed and dated by both the landlord and the tenant.”

I find that the residential tenancy agreement submitted by the landlord is not signed by Tenant T.M., which is a requirement of the direct request process, and that a participatory hearing is necessary in order to protect the procedural rights of Tenant T.M.

However, I find that Tenant J.M. and Tenant J.P. were obligated to pay the monthly rent in the amount of \$850.00, as per the tenancy agreement.

I accept the evidence before me that Tenant J.M. and Tenant J.P. 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 Tenant J.M. and Tenant J.P. 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, April 16, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for April 2017 as of April 18, 2017.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on Tenant J.M. and Tenant J.P. Should Tenant J.M. and Tenant J.P. and any other occupant 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: April 26, 2017

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Residential Tenancy Branch