



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding AMBER PROPERTIES LTD  
[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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 1, 2017, the landlords personally served Tenant M.B. the Notice of Direct Request Proceeding. The landlords had Tenant M.B. and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlords and in accordance with section 89 of the *Act*, I find that Tenant M.B. has been duly served with the Direct Request Proceeding documents on May 1, 2017.

The landlords submitted a second signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 1, 2017, the landlords attempted to serve Tenant G.M. the Notice of Direct Request Proceeding however Tenant M.B. advised the landlords that Tenant G.M. had not been home for a week. The landlords indicated on the Proof of Service of the Notice of Direct Request Proceeding that they were unable to Serve Tenant G.M.

As the landlords have not established that Tenant G.M. has been served with the Notice of Direct Request Proceeding, the monetary portion of the landlord’s application naming Tenant G.M. is dismissed, with leave to reapply.

I will now consider the landlord’s application naming Tenant M.B. as a respondent.

### 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 Tenant M.B.;
- A copy of a residential tenancy agreement which was signed by the landlord and Tenant M.B. on August 28, 2015, indicating a monthly rent of \$1,050.00, due on the last day of the month for a tenancy commencing on September 1, 2015
- A copy of a Notice of Rent Increase form showing the rent being increased from \$1,050.00 to the current monthly rent amount of \$1,080.45;
- 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 21, 2017, and personally served to Tenant M.B. on April 21, 2017, with a stated effective vacancy date of May 1, 2017, for \$1,080.45 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was personally served to Tenant M.B. at 9:40 pm on April 21, 2017. The 10 Day Notice states that Tenant M.B. 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 Tenant M.B. was duly served with the 10 Day Notice on April 21, 2017.

I find that Tenant M.B. was obligated to pay the monthly rent in the amount of \$1,080.45, as per the tenancy agreement and the Notice of Rent Increase.

I accept the evidence before me that Tenant M.B. 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 Tenant M.B. is 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, May 1, 2017.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$1,080.45, the amount claimed by the landlords, for unpaid rent owing for April 2017 as of May 1, 2017.

### Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on Tenant M.B. Should Tenant M.B. 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.

Pursuant to section 67 of the *Act*, I find that the landlords are entitled to a Monetary Order in the amount of \$1,080.45 for rent owed for April 2017. The landlords are provided with this Order in the above terms and Tenant M.B. must be served with **this Order** as soon as possible. Should Tenant M.B. 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: May 16, 2017

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Residential Tenancy Branch