



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## 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 June 28, 2017, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had a witness and the tenant sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on June 28, 2017, the day it was personally served to them.

### 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 tenants;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on August 31, 2015, indicating a monthly rent in the amount of

\$1,800.00, due on the 31st day of the month for a tenancy commencing on August 31, 2015;

- A copy of a demand letter from the landlord to the tenant, dated May 05, 2017, requesting payment of utilities in the amount of \$800.00;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy. The Monetary Order Worksheet noted that \$450.00 of the \$1,800.00 identified as owing in the 10 Day Notice was paid on June 15, 2017; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 12, 2017, and posted to the tenant's door on June 12, 2017, with a stated effective vacancy date of June 21, 2017, for \$1,800.00 in unpaid rent and \$800.00 in unpaid utilities.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 7:00 p.m. on June 12, 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 sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on June 15, 2017, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,800.00 as per the tenancy agreement.

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 ended on the corrected effective date of the 10 Day Notice, June 25, 2017.

Section 46 (6) of the *Act* allows the landlord to treat the unpaid utilities as unpaid rent, 30 days after the tenant is given a written demand for them. I find that there are no copies of the utility bills to support the amount being demanded. For this reason the

monetary portion of the landlord's application concerning unpaid utilities is dismissed, with leave to reapply.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order in the amount of \$1,350.00, the amount of unpaid rent claimed by the landlord owing for June 2017, as of June 23, 2017.

### 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.

Pursuant to section 67 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of \$1,350.00 for rent owed for June 2017. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant 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.

I dismiss the monetary portion of the landlord's application concerning unpaid utilities, 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: June 29, 2017

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Residential Tenancy Branch