



# Dispute Resolution Services

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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 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 July 10, 2017, the landlords personally served the tenant the Notice of Direct Request Proceeding. The landlords had 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 landlords 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 July 10, 2017.

### 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 landlords 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 and the tenant on July 18, 2014, indicating a monthly rent of \$1,200.00, due on the first day of the month for a tenancy commencing on August 1, 2014;

- Two copies of Notice of Rent Increase forms showing the rent being increased from \$1,200.00 to the monthly rent amount of \$1,255.00;
- A copy of an agreement signed by the landlord and the tenant on April 5, 2017, indicating a removal of the parking spot in exchange for a rental decrease in the amount of \$40.00, effective April 1, 2017;
- 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 July 2, 2017, and personally served to the tenant on July 2, 2017, with a stated effective vacancy date of July 13, 2017, for \$1,215.00 in unpaid rent and \$25.00 in late fees.

Documentary evidence filed by the landlords indicates that the 10 Day Notice was personally served to the tenant at 2:30 pm on July 2, 2017. The landlords had the tenant sign the Proof of Service Notice to End Tenancy to confirm personal service. 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 section 88 of the *Act*, I find that the tenant was duly served with the 10 Day Notice on July 2, 2017.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,215.00, as per the tenancy agreement, the Notices of Rent Increase and the parking removal 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 will end on the effective date of the 10 Day Notice, July 13, 2017.

I note that the only monetary award available to landlords by way of the direct request process is for unpaid rent and unpaid utilities. As the landlords have also sought a

monetary award for matters relating to late fees, I would not be able to consider this aspect of the landlords' claim through the direct request process.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$1,215.00, the amount claimed by the landlords, for unpaid rent owing for July 2017 as of July 10, 2017.

### Conclusion

I grant an Order of Possession to the landlords effective **on July 13, 2017, 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.

Pursuant to section 67 of the *Act*, I find that the landlords are entitled to a Monetary Order in the amount of \$1,215.00 for rent owed for July 2017. The landlords are 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 landlords' application for a Monetary Order relating to late fees 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: July 11, 2017

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Residential Tenancy Branch