



# 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 two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on July 21, 2017, the landlord sent each of the tenants the Notice 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 July 26, 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*?

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 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 the landlord on April 23, 2015 and the tenants on March 16, 2015, indicating a monthly rent of \$2,405.00, due on the first day of each month for a tenancy commencing on May 1, 2015;
- A Monetary Order Worksheet and ledger 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 7, 2017, and sent to the tenants by registered mail on July 7, 2017, with a stated effective vacancy date of July 22, 2017, for \$5,005.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the 10 Day Notice was sent to each of the tenants by registered mail at 3:31 pm on July 7, 2017. The landlord provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. 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 tenants were deemed served with the 10 Day Notice on July 12, 2017, five days after its registered mailing.

I accept the evidence before me that the tenants 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 the tenants 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, July 22, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing as of July 19, 2017.

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. The landlord has provided a note stating that the tenant agreed to an increased rent but did not sign the new agreement reflecting the increased rent amount. When there has been a rent increase, the appropriate Notice of

Rent Increase forms must be submitted with the Application for Dispute Resolution to substantiate the claim for the increased rent.

For this reason, the landlord's application for a Monetary Order is dismissed with leave to reapply.

Conclusion

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

I dismiss the landlord's application for a Monetary Order 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 31, 2017

---

Residential Tenancy Branch