



# 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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 27, 2017, the landlord personally served tenant T.O. the Notice of Direct Request Proceeding. The landlord had 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 landlord and in accordance with section 89(1) of the *Act*, I find that tenant T.O. has been duly served with the Direct Request Proceeding documents on July 27, 2017, the day it was personally served to him.

The landlord submitted two more signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on July 27, 2017, the landlord served tenant C.B-H. and tenant C.J. the Notice of Direct Request Proceeding by leaving the Notices with tenant T.O., an adult who resides with the tenants. The landlord had a witness sign the Proofs of Service of the Notices of Direct Request Proceeding to confirm this service. Based on the written submission of the landlord and in accordance with section 89(2) of the *Act*, I find that tenant C.B-H. and tenant C.J. have been duly served with the Direct Request Proceeding documents on July 27, 2017.

### 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 a residential tenancy agreement which was signed by the landlord and tenants C.B-H. and C.J. on May 30, 2017. A date was not indicated beside the signature of tenant T.O. The agreement indicated a monthly rent of \$900.00, due on the first day of the month for a tenancy commencing on June 01, 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 18, 2017, with a stated effective vacancy date of July 28, 2017, for \$1,400.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was served to tenant T.O. at 2:15 p.m. on July 18, 2017. The 10 Day Notice states that the tenants had five days from the date received 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 July 18, 2017, the date it was personally served to tenant T.O.

I find that the tenants were obligated to pay the monthly rent in the amount of \$900.00 as per the tenancy agreement.

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 28, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for June and July 2017 as of July 26, 2017.

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.

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: August 15, 2017

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Residential Tenancy Branch