



# 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 August 28, 2017, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on September 2, 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 a residential tenancy agreement which was signed by the landlord and the tenant on April 25, 2017, indicating a monthly rent of \$970.00, due on the first day of each month for a tenancy commencing on May 1, 2017;
- A Monetary Order Worksheet and ledger showing the rent owing and paid during the relevant portion of this tenancy;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 5, 2017, with a stated effective vacancy date of July 18, 2017, for \$970.00 in unpaid rent and \$80.00 in unpaid utilities;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice for July 2017 was posted to the tenant's door at 1:30 pm on July 5, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated August 9, 2017, with a stated effective vacancy date of August 20, 2017, for \$970.00 in unpaid rent and \$15.00 in unpaid utilities; and
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice for August 2017 was posted to the tenant's door at 4:30 pm on August 9, 2017.

The 10 Day Notices state 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 sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice for July 2017 on July 8, 2017, three days after its posting. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice for August 2017 on August 12, 2017, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$970.00, as per the tenancy agreement.

Section 52 of the *Act* provides the following requirements regarding the form and content of notices to end tenancy:

- 52** *In order to be effective, a notice to end a tenancy must be in writing and must*
- (a) be signed and dated by the landlord or tenant giving the notice,*
  - (b) **give the address of the rental unit,***
  - (c) state the effective date of the notice,...and*
  - (e) when given by a landlord, be in the approved form...*

I have reviewed all documentary evidence and I find that there is no address from where the tenant must move out of or vacate, on the 10 Day Notice for August 2017. I find that this

omission invalidates the 10 Day Notice as the landlord has not complied with the provisions of section 52 of the *Act*.

Therefore, I dismiss the landlord's application to end this tenancy and obtain an Order of Possession on the basis of the 10 Day Notice of August 9, 2017, without leave to reapply.

However, with regards to the 10 Day Notice for July 2017, 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 effective date of the 10 Day Notice for July 2017, July 18, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing as of August 22, 2017.

I find that the monthly breakdown of rent owing on the Monetary Order Worksheet does not match with the total monetary amount requested by the landlord. For this reason the monetary portion the landlord's application 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 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.

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: September 05, 2017

---

Residential Tenancy Branch