



# 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 two signed Proof of Service documents of the Notice of Direct Request Proceeding which declares that on August 31, 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 submission of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that both tenants have been deemed served with the Direct Request Proceeding documents on September 5, 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*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and both tenants on March 7, 2014, indicating a monthly rent of \$765.00, due on the first day of the month for a tenancy commencing on April 1, 2014;
- 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 August 3, 2017, with a stated effective vacancy date of August 15, 2017, for \$476.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants’ door at 1:30 p.m. on August 3, 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 tenants were deemed served with the 10 Day Notice on August 6, 2017, three days after its posting.

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.

The landlord provided two Notice of Rent Increase forms, one for 2016 and one for 2017. The Notice of Rent Increase form for 2015 was not provided. The landlord is not seeking a monetary claim.

Based on the foregoing, I find that the tenants have 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, August 16, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for August 2017 as of August 28, 2017.

#### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). 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: September 08, 2017

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Residential Tenancy Branch