



# 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 September 3, 2017, the landlord posted the Notice of Direct Request Proceeding to the door of the rental unit. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service.

Based on the written submission of the landlord and in accordance with sections 89(2) and 90 of the *Act*, I find that the tenant has been deemed served with that portion of the Direct Request Proceeding documents that pertains to the request for an Order of Possession for unpaid rent on September 6, 2017, the third day after their posting.

### 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 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 January 16, 2016, indicating a monthly rent of \$750.00 due on the last day of the month for a tenancy commencing on February 1, 2016;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 13, 2017, and served personally to the tenant on July 13, 2017, with a stated effective vacancy date of July 25, 2017, for \$2,400.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally served to the tenant at 5 (a.m. or p.m. not indicated) on July 13, 2017. 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 sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on January 19, 2017, three days after its posting.

The Direct Request Worksheet also included \$150.00 for monies not considered as rent owed as per the tenancy agreement.

I find that the tenant was obligated to pay the monthly rent in the amount of \$750.00, as per the tenancy 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 ended on the corrected effective date of the 10 Day Notice, July 25, 2017.

Section 89(2) of the *Act* does allow for the Notice of Direct Request Proceeding for an Order of Possession for unpaid rent to be given to the tenant by attaching a copy to a door at the address at which the tenant resides. Section 89(1) of the *Act* does not allow for service of applications for monetary awards to be given to the tenant by attaching a copy to a door at the address at which the tenant resides.

I find that the landlord has not served the Notice of Direct Request Proceeding to the tenant in a way permitted by section 89(1) of the *Act*, and for this reason, the monetary portion of the landlord's application is dismissed with leave to reapply.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for March 2017, April 2017, and May 2017 as of September 1, 2017.

### Conclusion

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

---

Residential Tenancy Branch