



# Dispute Resolution Services

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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 1, 2017, the Landlord served the Tenant N.M. 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 Tenant N.M. has been deemed served with the Direct Request Proceeding documents on September 6, 2017, the fifth day after the registered mailing.

The Landlord submitted a second signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 3, 2017, the Landlord personally delivered the Notice of Direct Request Proceeding to Respondent N.S. The Landlord had Respondent N.S. sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service.

Based on the written submissions of the Landlord and in accordance with sections 89 of the *Act*, I find that Respondent N.S. has been duly served with the Direct Request Proceeding documents on September 3, 2017, the day it was personally served.

### 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 Tenant N.M. on October 18, 2016, indicating a monthly rent of \$980.00, due on the first day of each month for a tenancy commencing on November 1, 2016;
- 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 19, 2017, with a stated effective vacancy date of August 31, 2017, for \$1,560.00 in unpaid rent.

Witnessed documentary evidence filed by the Landlord indicates that the 10 Day Notice was posted to the door of the rental unit at 1:00 p.m. on August 19, 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.

Additional documentary evidence filed by the Landlord indicates the same 10 Day Notice was sent by registered mail to Tenant N.M. and Respondent N.S. on August 19, 2017 to the rental unit. The Landlord provided one copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. The 10 Day Notice states that the Tenant(s) 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 August 22, 2017, three days after its posting.

I find that Respondent N.S. has not signed the tenancy agreement which is a requirement of the direct request process. For this reason, the monetary portion of the Landlords' application naming N.S. as a respondent is dismissed without leave to reapply.

However I find that Tenant N.M. was obligated to pay the monthly rent in the amount of \$980.00, as per the tenancy agreement signed by Tenant N.M.

I accept the evidence before me that the Tenant N.M. 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, September 1, 2017 based upon the documentary evidence showing the notice was posted on the door.

Therefore, I find that the Landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$1,560.00, the amount claimed by the Landlord, for unpaid rent owing for August 2017 as of August 31, 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 and any occupants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$1,560.00 against rent owed for August 2017. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I dismiss the monetary portion of the Landlord's application against Respondent N.S. without 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 21, 2017

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Residential Tenancy Branch