



# 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 two signed Proof of Services of the Notice of Direct Request Proceeding which declares that on September 14, 2017, the Landlord sent both Tenants individual copies of the Notice of Direct Request Proceedings by registered mail to the rental unit. The Landlord provided two copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions 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 19, 2017, the fifth day after their registered mailings.

### 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 Tenants on August 1, 2013, indicating a monthly rent of \$800.00, due on the first day of each month for a tenancy commencing on July 1, 2013;
- A copy of a Notice of Rent Increase form dated January 30, 2016 showing the rent being increased from \$800.00 to the current monthly rent amount of \$823.00;

- 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 September 6, 2017, with a stated effective vacancy date of September 16, 2017, for \$853.45 in unpaid rent.

Witnessed documentary evidence filed by the Landlord indicates that the 10 Day Notice was personally signed for at 3:15 p.m. on September 6, 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

In an *ex parte* Direct Request Proceeding, the onus is on the Landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

On the application for Dispute Resolution by Direct Request, the Landlord establishes a request for a monetary order in the amount of \$853.45 which arises from \$823.00 unpaid rent for September 2017. The monthly rent in the tenancy agreement was established to be \$800.00. A Notice of Rent Increase form dated January 30, 2016 shows the rent being increased from \$800.00 to the current monthly rent amount of \$823.00.

I find that the breakdown of rent owing on the Monetary Order Worksheet is incomplete as the amount of rent on the tenancy agreement plus the rent increase does not match the amount of rent being claimed on the 10 Day Notice for September 2017. I find that \$853.45 is listed as owing on the 10 Day Notice but the monthly rent, according to the most recent Notice of Rent Increase form provided by the landlord, is only \$823.00. Documentary evidence was not provided for how the rent increased from the original amount of \$823.00 to the present monthly amount being requested of \$853.45. For this reason, I allow only \$823.00 of the Landlord's application for a monetary award.

I have reviewed all documentary evidence and in accordance with sections 88 of the *Act*, I find that the Tenants were duly served with the 10 Day Notice on September 6, 2017, the day it was personally served.

I accept the evidence before me that the Tenants have failed to pay the rent owed in full within the five days granted under section 46(4) of the *Act* and did not dispute the 10 Day Notice within that five day period.

Based on the foregoing, I find that the Tenant have 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, September 16, 2017.

Therefore, I find that the Landlord is entitled to an Order of Possession for unpaid rent owing for September 2017 as of September 13, 2017.

Therefore, I find that the Landlord is entitled to an Order of Possession for unpaid rent and a Monetary Order in the amount of \$823.00, the amount owing for September 2017, as of September 13, 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 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.

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$823.00 for rent owed for September 2017. The Landlord is provided with this Order in the above terms and the Tenant(s) must be served with **this Order** as soon as possible. Should the Tenant(s) 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.

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