



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPRM-DR FFL

### 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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 01, 2017, the landlords sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlords 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 December 06, 2017, the fifth day after their registered mailing.

### Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by an agent for the landlords and the tenant on May 30, 2017, indicating a monthly rent of \$1,095.00, due on the first day of each month for a tenancy commencing on June 01, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated November 07, 2017 for \$1,097.00 in unpaid rent (the 10 Day Notice). The 10 Day Notice provides 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 on the stated effective vacancy date of November 17, 2017;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to the tenant by registered mail at 11:00 a.m. on November 08, 2017; and
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy, and a copy of the Tenant Ledger dated November 22, 2017.

### 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 November 13, 2017, five days after its mailing.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,095.00, 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 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 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, November 23, 2017.

I find that the monthly breakdown of rent owing on the Direct Request Worksheet is incomplete as the amount of rent on the tenancy agreement does not match the amount of rent being claimed on the 10 Day Notice. I find that \$1,097.00 is listed as owing on the 10 Day Notice, as detailed on the Direct Request Worksheet for November 01, 2017, but the monthly rent as set out in the tenancy agreement is only \$1,095.00.

In order to claim for additional rent, the Direct Request Worksheet must clearly show any additional months that the tenant still owes rent for in order to substantiate the landlords' claim for any monies over and above the amount of rent as shown on the tenancy agreement. For this reason, I will only allow the monetary portion of the landlord's application for unpaid rent for November 2017 in the amount of \$1,095.00. Rent outstanding prior to November 01, 2017 is dismissed, with leave to reapply.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$1,095.00, the amount for unpaid rent owing for November 2017 as of November 30, 2017.

As the landlords were successful in this application, I find that the landlords are entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I grant an Order of Possession to the landlords 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.

Pursuant to sections 67 and 72 of the *Act*, I grant the landlords a Monetary Order in the amount of \$1,195.00 for rent owed for November 2017 and for the recovery of the filing fee for this application. The landlords are 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 landlord's monetary claim for outstanding rent prior to November 01, 2017, 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 *Act*.

Dated: December 07, 2017

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Residential Tenancy Branch