



# 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 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 January 17, 2018, the landlord sent the tenant 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 submission of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant is deemed to have been served with the Direct Request Proceeding documents on January 22, 2018, 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*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 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 by the tenant on September 06, 2014, indicating a monthly rent of \$1,100.00, due on the first day of each month for a tenancy commencing on October 01, 2014;
- A copy of a Notice of Rent Increase form showing the rent being increased from \$1,100.00 to the current monthly rent amount of \$1,135.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated January 06, 2018 for \$2,235.00 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 January 06, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally handed to the tenant at 4:15 p.m. on January 06, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

### Analysis

It is important to note that tenant's middle name on the Application for Dispute Resolution is spelled differently than his middle name on the tenancy agreement and other documents provided in evidence. However, I am satisfied that this is an inadvertent error and that a reasonable person would know that the tenant referred to in the Application for Dispute Resolution is the same person as the tenant referred to in the tenancy agreement and other documents submitted into evidence. Therefore, pursuant to the provisions of sections 62 and 64 of the *Act*, I have amended the Landlord's application to include both spellings of the tenant's middle name.

I have reviewed all documentary evidence and in accordance with section 88 of the *Act*, I find that the tenant was duly served with the 10 Day Notice on January 06, 2018, the day it was personally served to the tenant.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,135.00, as per the tenancy agreement and Notice of Rent Increase form.

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, January 16, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$2,235.00, the amount claimed by the landlord, for unpaid rent owing for December 2017 and January 2018 as of January 12, 2018.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I grant an Order of Possession to the landlord 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 landlord a Monetary Order in the amount of \$2,335.00 for rent owed for December 2017 and January 2018 and for the recovery of the filing fee for this application. 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.

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: January 23, 2018

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Residential Tenancy Branch