



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Mansion Realty Inc  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR FF

### 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 Proof of Service of the Notice of Direct Request Proceeding which declares that on February 28, 2018, the landlord sent each of the tenants 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 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 the tenants have been deemed served with the Direct Request Proceeding documents on March 5, 2018, 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 the Proof of Service of the Notices of Direct Request Proceeding served to the tenants;

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on September 27, 2017, indicating a monthly rent of \$1,800.00, due on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated February 2, 2018, with a stated effective vacancy date of February 17, 2018. The amount outstanding on this 10 Day Notice was \$1,850.00;
- A Proof of Service – Notice to End Tenancy document, which specifies that the 10-Day Notice was served to the tenants on February 2, 2018, by registered mail;
- A Direct Request Worksheet showing that rent in the amount of \$1,800.00 was due on February 1, 2018, and that only \$1,250.00 was paid on February 7, 2018 (leaving \$550.00 owing);
- Two other 10 Day Notices from previous months, which the Landlord included to indicate a pattern of late payments

The 10 Day Notices state 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

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on February 7, 2018, five days after its registered mailing. I find that the tenants were obligated to pay the monthly rent in the amount of \$1,800.00, as per the tenancy agreement. Although it appears partial payment has been made by the tenants, 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 effective date of the 10-Day Notice, February 17, 2018. I find that the landlord is entitled to an Order of Possession for unpaid rent on this basis.

Further, with respect to the landlord's request for a Monetary Order for unpaid rent, the Landlord has provided evidence to support that the tenants only paid \$1,250.00 in rent for the month of February 2018, leaving \$550.00 unpaid.

Further, given the Landlord was successful in this application, I award the recovery of the filing for the cost of this application (\$100.00)

Based on the totality of the evidence before me, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$650.00.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. 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 \$650.00 for rent owed. The landlord is provided with this Order in the above terms and the tenants must be served with **this Order** as soon as possible. Should the tenants 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: March 09, 2018

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Residential Tenancy Branch