



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes      OPR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for unpaid rent and utilities pursuant to section 55;

This application was originally heard by way of a Direct Request Proceeding and on August 2, 2018 an interim decision was issued adjourning the application to be reconvened at a participatory hearing.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 1:50 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord's agent attended the hearing and was given a full opportunity to provide affirmed testimony, present evidence and make submissions.

The landlord's agent testified that on August 8, 2018, he personally served the tenant with a copy of the Application for Dispute Resolution including the Notice of Hearing and Interim Decision.

Based on the above evidence, I am satisfied that the tenant was personally served with the Application for Dispute Resolution, Notice of Hearing and Interim Decision pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

### Issues

Is the landlord entitled to an order of possession pursuant to a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice)?

### Background and Evidence

The tenancy began on December 1, 2014 and the current monthly rent is \$825.00 payable on the 1<sup>st</sup> day of each month. The current landlord purchased the rental property from the previous owner who is named in the tenancy agreement on May 8, 2018.

The landlord's agent testified that on June 2, 2018 he personally served the 10 Day Notice to a female adult who resides with the tenant. The landlord's agent testified that the female adult stated to him that she was residing with the tenant. The landlord's agent testified that he also posting a copy of the 10 Day Notice to the door of the rental premises. A witnessed proof of service of the 10 Day Notice was provided with the application. The proof of service was witnessed by an upstairs tenant. The landlord's agent testified that he had also previously served the tenant with the same 10 Day Notice on May 2, 2018 on behalf of the previous owners. The tenant promised to pay the outstanding rent but failed to do so and has not paid any rent since.

### Analysis

I am satisfied that the tenant was deemed served with the 10 Day Notice on June 5, 2018, three days after its posting, pursuant to sections 88 & 90 of the Act.

Section 46 of the Act requires that upon receipt of a 10 Day Notice the tenant must, within five days, either pay the full amount of the arrears indicated on the 10 Day Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended.

I find that the 10 Day Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. 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.

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, 2018

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Residential Tenancy Branch