



# 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 an application by the landlordS under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for possession pursuant to section 46.

The landlords attended the hearing. The tenant did not attend at the hearing. I kept the teleconference line open from the time the hearing was scheduled, plus an additional twenty minutes, to allow the tenant the opportunity to call. The teleconference system indicated only the landlords and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant had been provided.

The landlords were given an opportunity to present affirmed testimony, call witnesses and submit evidence.

The landlords provided affirmed testimony they personally served the tenant with the Notice of Hearing and Application for Dispute Resolution October 4, 2018. I find the tenant was served pursuant to section 89 of the *Act*.

### Issue(s) to be Decided

Are the landlords entitled to an order for possession pursuant to section 46.

### Background and Evidence

The landlords testified they entered into a month-to-month verbal tenancy agreement with the tenant beginning on April 1, 2018 for monthly rent of \$300.00 payable on the first of the month. The tenant did not provide a security deposit.

The tenant did not pay rent on September 1, 2018. On September 4, 2018, the landlords served the tenant with a 10 Day Notice for Unpaid Rent or Utilities ("Ten-Day Notice") a copy of which the landlords submitted as evidence.

The Ten-Day Notice provides 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 September 14, 2018.

The landlord testified the tenant did not pay rent within the five-day period and did not make an application for dispute resolution. The tenant did not pay rent for the months of October or November 2018. The tenant did not dispute the Ten-Day Notice.

The landlords stated the police removed the tenant from the unit on September 29, 2018 and have informed the landlords the tenant is not permitted to return. The landlords have not received a copy of any court order requiring the tenant to vacate the unit or not return to the unit.

The landlords state the tenant has not removed her personal belongings. They request an order of possession.

### Analysis

I find the form and content of the Ten-Day Notice complies with section 52 of the *Act*.

I find the landlords personally served the tenant with the Ten-Day Notice on September 4, 2018 in accordance with sections 88 of the *Act*.

I find the tenant did not pay the overdue rent or dispute the Ten-Day Notice within the five-day period following service.

Therefore, pursuant to section 46(5), the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice September 14, 2018 requiring the tenant to vacate the rental unit by that date.

As the tenant may continue to occupy the unit, I find the landlords are entitled to an order of possession under section 46, effective two days after service.

I therefore grant the landlords an order of possession effective two days after service.

Conclusion

I grant the landlords an order of possession **effective two (2) days** after service on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia to be enforced as an order of that Court.

I make this decision on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 08, 2018

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Residential Tenancy Branch