



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR-DR

### 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 two signed Proof of Service of the Notice of Direct Request Proceeding forms which declare that on November 27, 2018, the landlord served each of the above-named tenants with the Notice of Direct Request Proceeding by way of posting a copy for each tenant to the door of the rental unit. The Proof of Service forms establish that the service was witnessed by an individual bearing the initials “JZ” and a signature for “JZ” is included on the forms.

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 November 30, 2018, three days after their posting.

### 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*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants, indicating a monthly rent of \$2,200.00 due on the 23<sup>rd</sup> day of each month for a tenancy commencing on August 23, 2018;

- A Direct Request Worksheet showing the rent owing during the portion of this tenancy in question, on which the landlord establishes that there is unpaid rent owed in the amount of \$700.00, comprised of the balance of unpaid rent due by October 23, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated November 19, 2018, which the landlord states was served to the tenants on November 19, 2018, for \$700.00 in unpaid rent due on October 23, 2018, with a stated effective vacancy date of November 29, 2018;
- A copy of the Proof of Service of the Notice form asserting that the landlord served the Notice to the tenants by way of personal service via hand-delivery on November 19, 2018. The Proof of Service form establishes that the service of the Notice was witnessed and a name and signature for the witness are included on the form.

The Notice restates section 46(4) of the Act which provides that the tenants had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenants did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenants did not pay the rental arrears.

### Analysis

I have reviewed all documentary evidence provided by the landlord and find that in accordance with section 88 of the *Act* the tenants were duly served with the Notice on November 19, 2018.

I find that the tenants were obligated to pay monthly rent in the amount of \$2,200.00, as established in the tenancy agreement. I accept the evidence before me that the tenants have failed to pay rental arrears in the amount of \$700.00, comprised of the balance of unpaid rent owed by October 23, 2018.

I accept the landlord's undisputed evidence and find that the tenants did not pay the rent owed in full within the five days granted under section 46 (4) of the *Act* and did not apply to dispute the Notice within that five-day period.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice, November 29, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession based on the November 19, 2018 Notice served to the tenants for unpaid rent owed by October 23, 2018, as claimed on the landlord's Application for Dispute Resolution by Direct Request

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: December 05, 2018

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Residential Tenancy Branch