



# 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 27, 2019, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had the tenant and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on January 27, 2019.

### 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 the tenant on April 1, 2015, indicating a monthly rent of \$900.00, due on the first day of each month for a tenancy commencing on April 1, 2015;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the November 10 Day Notice) dated November 3, 2018, for \$900.00 in unpaid rent. The November 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 November 18, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the November 10 Day Notice was personally served to the tenant at 9:30 am on November 3, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the December 10 Day Notice) dated December 2, 2018, for \$900.00 in unpaid rent. The December 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 December 18, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the December 10 Day Notice was personally served to the tenant at 11:00 am on December 2, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the January 10 Day Notice) dated January 2, 2019, for \$900.00 in unpaid rent. The January 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 17, 2019;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the January 10 Day Notice was personally served to the tenant at 3:00 pm on January 2, 2019; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy. The Direct Request Worksheet noted that \$575.00 of the \$900.00 identified as owing in the November 10 Day Notice was paid on October 30, 2018, \$575.00 of the \$900.00 identified as owing in the December 10 Day

Notice was paid on November 28, 2018, and \$575.00 of the \$900.00 identified as owing in the January 10 Day Notice was paid on December 20, 2018.

### Analysis

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 November 10 Day Notice on November 3, 2018. I find that the tenant was duly served with the December 10 Day Notice on December 2, 2018. I find that the tenant was duly served with the January 10 Day Notice on January 2, 2019.

Section 68 of the *Act* allows for the 10 Day Notice to be amended when it is reasonable to do so. I find that the address from which the tenant must vacate on the January 10 Day Notice does not match with the tenant's address for service of documents on the 10 Day Notice, the tenancy agreement, or any of the other documents submitted. I further find that the tenant is not prejudiced by amending the address as they are aware of what their correct address is on the signed tenancy agreement. For this reason I have amended the address on the January 10 Day Notice from which the tenant must vacate to reflect the address on the tenancy agreement.

I find that the tenant was obligated to pay the monthly rent in the amount of \$900.00, as per the tenancy agreement.

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 any of the 10 Day Notices within their respective five day periods.

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 January 10 Day Notice, January 17, 2019.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award in the amount of \$975.00, the amount claimed by the landlord, for unpaid rent owing for November 2018, December 2018, and January 2019 as of January 23, 2019.

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 \$1,075.00 for rent owed for November 2018, December 2018, and January 2019 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 *Residential Tenancy Act*.

Dated: January 31, 2019

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Residential Tenancy Branch