



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPRM-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 Proofs of Service of the Notices of Direct Request Proceeding which declare that on March 28, 2019, the landlord sent each of the tenants the Notice of Direct Request Proceeding by registered. The landlord provided a copy of the Canada Post Customer Receipts 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 are deemed to have been served with the Direct Request Proceeding documents on April 2, 2019, the fifth day after their registered mailing.

### 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 a residential tenancy agreement which was signed by the landlord and the tenants on May 27, 2015, indicating a monthly market rent of \$1,300.00, due on the first day of each month for a tenancy commencing on June 1, 2015;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 14, 2019, for \$3,556.00 in unpaid rent. The 10 Day Notice provides 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 on the stated effective vacancy date of March 25, 2019;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to the tenants by registered mail at 11:09 (a.m. or p.m. not indicated) on March 14, 2019;
- A copy of a Canada Post Customer Receipt containing the Tracking Number to confirm the 10 Day Notice was sent to the tenants on March 14, 2019; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

### 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 March 19, 2019, five days after its registered mailing.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the five days granted under section 46(4) of the *Act* and did not dispute the 10 Day Notice within that five day period.

Based on the foregoing, I find that the tenants are conclusively presumed under sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, March 29, 2019.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing as of March 26, 2019.

I find that the monthly breakdown of rent owing on the Direct Request Worksheet is incomplete as it lists an opening balance of \$3,056.00. The Direct Request Worksheet must clearly show any additional months for which the tenants still owe rent in order to

substantiate the landlord's claim for any monies over and above the amount of rent shown on the tenancy agreement.

For this reason, the landlord's application for a Monetary Order for unpaid rent is dismissed with leave to reapply.

### Conclusion

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

I dismiss the landlord's application for a Monetary Order for unpaid rent with leave to reapply.

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: April 03, 2019

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Residential Tenancy Branch