



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0952630 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPUM-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 utilities, and a Monetary Order for the unpaid rent and utilities.

The Landlord submitted two signed Proof of Service - Notice of Direct Request Proceeding documents which declared that on October 4, 2019, the Landlord served the Tenants the Notices of Direct Request Proceeding by registered mail. The Landlord included the Canada Post receipts and tracking numbers that related to the posted Notices. 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 October 9, 2019, five days after posting.

### Issues to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent and utilities pursuant to sections 46 and 55 of the *Act*?

Is the Landlord entitled to monetary compensation for unpaid rent and utilities 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

I have reviewed all written submissions and evidence before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The Landlord submitted the following evidentiary material:

- A copy of a residential Tenancy Agreement which was signed by both the Landlord and one of the Tenants, indicating a monthly rent of \$900.00, due on the first day of each day, for a tenancy commencing on November 1, 2018. The address of the place being rented was differentiated from the Landlord's address with the letter "A";
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 17, 2019, for \$171.00 in unpaid rent. The 10 Day Notice provided 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, which was left blank. The 10 Day Notice identified the rental unit as "Upper";
- A copy of a witnessed Proof of Service - Notice to End Tenancy form which indicated that the 10 Day Notice was served by placing it between the door and door frame of the rental unit on September 17, 2019. The unit number of the rental unit was left blank;
- A One Month Notice to End Tenancy for Cause was submitted under the 30 Day Written Demand Letter of the Application instead of a letter that demands the Tenants to pay any overdue utilities.
- A Direct Request Worksheet showing the amount of rent owing for September 2019 in the amount of \$120.00 and the amount of utilities due in the amount of \$50.00.

### Analysis

Direct Request proceedings are *ex parte* proceedings. In an *ex parte* proceeding, the opposing party is not invited to participate in the hearing or make any submissions. As there is no ability of the tenants to participate, there is a much higher burden placed on landlords in these types of proceedings than in a participatory hearing. This higher burden protects the procedural rights of the excluded party and ensures that the natural justice requirements of the Residential Tenancy Branch are satisfied.

The onus is on the landlord to present evidentiary material that does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

The Landlord must provide clarity and consistency when providing evidence for the amount of rent due. In this case, I note that there are inconsistencies regarding the amount of rent and utilities that are due; with conflicting information in the application, the 10 Day Notice and the Direct Request Worksheet.

I note that the Landlord has not provided a vacate date on the 10 Day Notice.

I note that the Landlord has provided three different addresses for the rental unit and two different addresses for himself.

I note that the Landlord has not provided a 30 Day Written Demand Letter in regard to the claiming of unpaid utilities.

I cannot make inferences and assumptions when considering an Application for Dispute Resolution. When applying via the Direct Request Proceeding process, the submissions must be consistent, and the documentary evidence must all align. As a result, I find that the above documentation and evidence does not meet the standard of the Direct Request Proceeding process. Therefore, I dismiss the Landlord's Application with leave to reapply.

Conclusion

The Landlord's Application for Dispute Resolution is dismissed 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: October 10, 2019

---

Residential Tenancy Branch