



# 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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service Notice of Direct Request Proceeding form which declares that on September 9, 2020, the landlords personally served Tenant A.S. the Notice of Direct Request Proceeding. The landlords had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service.

I find the landlords have not submitted a copy of a Proof of Service Notice of Direct Request Proceeding form to establish service of the Notice of Direct Request Proceeding documents to Tenant E.P.

It its place, the landlords submitted a Proof of Service Notice of Direct Request Proceeding form which declares that the landlords served a second copy of the Notice of Direct Request Proceeding to Tenant A.S. by handing the documents to Tenant E.P.

I find I cannot confirm that Tenant E.P. received their own copy of the Notice of Direct Request Proceeding documents. For this reason, I will only proceed with the portion of the landlords' application naming Tenant A.S. as a respondent.

### Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Background and Evidence

The landlords submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by one of the landlords and the tenants on November 6, 2016, indicating a monthly rent of \$950.00, due on the twenty-fifth day of each month for a tenancy commencing on November 10, 2016;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated August 26, 2020, for \$950.00 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 September 5, 2020;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to Tenant A.S. at 1:30 pm on August 26, 2020; 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 I find that Tenant A.S. was obligated to pay the monthly rent in the amount of \$950.00, as per the tenancy agreement.

In accordance with section 88 of the *Act*, I find that Tenant A.S. was duly served with the 10 Day Notice on August 26, 2020.

I accept the evidence before me that Tenant A.S. 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 the 10 Day Notice within that five-day period.

Based on the foregoing, I find that Tenant A.S. is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, September 5, 2020.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary award in the amount of \$950.00, the amount claimed by the landlords for unpaid rent owing for August 2020, as of the date of this application, September 1, 2020.

As the landlords were partially successful in this application, I find that the landlords are entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on Tenant A.S. Should Tenant A.S. **and any other occupant** 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 landlords a Monetary Order in the amount of \$1,050.00 for rent owed for August 2020 and for the recovery of the filing fee for this application. The landlords are provided with this Order in the above terms and Tenant A.S. must be served with **this Order** as soon as possible. Should Tenant A.S. 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.

I dismiss the monetary portion of the landlord's application naming Tenant E.P. as a respondent without 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: September 10, 2020

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Residential Tenancy Branch