



# Dispute Resolution Services

Page: 1

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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 15, 2020, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant will be deemed to have been served with the Direct Request Proceeding documents on September 20, 2020, 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*?

### Background and Evidence

The landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on June 1, 2014, indicating a monthly rent of \$550.00, due on the first day of each month for a tenancy commencing on June 1, 2014;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated August 4, 2020, for \$585.00 in unpaid rent. The 10 Day Notice provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of August 15, 2020;
- A copy of a Proof of Service Notice to End Tenancy form which was signed by the tenant and indicates that the 10 Day Notice was personally served to the tenant at 5:30 pm on August 4, 2020; and

- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

### Analysis

On June 24, 2020, the Province of British Columbia issued Ministerial Order 195 under the *Emergency Program Act* which states that landlord must not issue a 10 Day Notice in respect to affected rent that is unpaid.

The COVID-19 Regulation defines affected rent as rent that has become due to be paid during the specified period, between March 18, 2020 and August 17, 2020.

I find that the landlord issued the 10 Day Notice on August 4, 2020 for rent that was due on August 1, 2020. I find the August 2020 rent is considered affected rent as it was due to be paid on August 1, 2020, before the end of the specified period, August 17, 2020.

For this reason, I find the landlord has not complied with the provisions of Ministerial Order 195 regarding the 10 Day Notice issued to the tenant.

Therefore, I dismiss the landlord's application to end this tenancy and obtain an Order of Possession based on the 10 Day Notice dated August 4, 2020 without leave to reapply.

The 10 Day Notice dated August 4, 2020 is cancelled and of no force or effect.

### Conclusion

The landlord's application for an order of Possession based on the 10 Day Notice dated August 4, 2020 is dismissed without leave to reapply.

The 10 Day Notice dated August 4, 2020 is cancelled and of no force or effect.

The tenancy continues until it is ended in accordance with the *Act* and all relevant Orders and Regulations.

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 15, 2020

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Residential Tenancy Branch