



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Ricechild Management Ltd dba Bayview  
Apartments and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-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.

The landlord submitted two signed Proof of Service Notice of Direct Request Proceeding forms which declare that on November 4, 2020, the landlord posted the Notices of Direct Request Proceeding to the door of the rental unit. The landlord had a witness sign the Proof of Service Notice of Direct Request Proceeding forms and submitted a copy of a photograph showing envelopes attached to a door to confirm this service. Based on the written submissions of the landlord and in accordance with sections 89(2) and 90 of the *Act*, I find that the tenants are deemed to have been served with the Direct Request Proceeding documents on November 7, 2020, the third day after their posting.

The landlord also submitted a copy of two Canada Post Customer Receipts containing Tracking Numbers to confirm packages were sent to the tenants by registered mail. However, I find the receipts show the landlord included both tenants' names on both mailings. As the landlord must serve the tenants the Notices of Direct Request Proceeding individually (meaning one envelope addressed to each tenant), I find I cannot consider the landlord's service by registered mail.

### 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 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 and submissions relevant to the issues and findings in this matter are described in this decision.

The landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on March 30, 2017, indicating a monthly rent of \$1,600.00, due on the first day of each month for a tenancy commencing on April 1, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 19, 2020, for \$1,700.00 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 October 29, 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 the tenants at 2:30 pm on October 19, 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 in accordance with section 88 of the *Act*, I find that the tenants were duly served with the 10 Day Notice on October 19, 2020.

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 section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, October 29, 2020.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent as of the date of this application, October 30, 2020.

In this type of matter, the landlord must prove they served the tenants with the Notice of Direct Request Proceeding with all the required inclusions as indicated on the Notice as per section 89 of the *Act*.

Section 89(1) of the *Act* does not allow for the Notice of Direct Request Proceeding to be given to the tenant by attaching a copy to a door at the address at which the tenant resides.

Section 89(2) of the *Act* does allow for the Notice of Direct Request Proceeding to be given to the tenant by attaching a copy to a door at the address at which the tenant resides, only when considering an Order of Possession for the landlord.

I find that the landlord has served the Notices of Direct Request Proceeding to the door of the rental unit at which the tenants resides, and for this reason, the landlord's application to recover the filing fee paid for this application is dismissed, without 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 to recover the filing fee paid for this application 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: November 25, 2020

---

Residential Tenancy Branch