



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes   OPR-DR, 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 filed by the Landlord for an order of possession and a monetary order based on unpaid rent, and an order granting recovery of the filing fee.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding document which declares that on December 17, 2020, the Landlord served the Tenant with a Notice of Direct Request Proceeding by registered mail. The Landlord provided copies of Canada Post receipts containing the Tracking Numbers 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 the Tenant is deemed to have received these documents on December 22, 2020, five days after they were mailed.

### Preliminary Issue

The tenancy agreement submitted into evidence does not include S.J. as a named tenant. Further, S.J. has not signed the tenancy agreement. As a result, I find that S.J. is not a party to the tenancy agreement submitted into evidence and I amend the application to remove her as a party. This finding and amendment is reflected throughout this decision.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?
2. Is the Landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?
3. 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 Tenant on December 22, 2019, indicating a monthly rent of \$1,000.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 9, 2020 (the “10 Day Notice”), for \$1,000.00 in unpaid rent. The 10 Day Notice provides that the Tenant 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 November 24, 2020;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was served on the Tenant by attaching a copy to the door or other conspicuous place on November 15, 2020, which service was witnessed by P.S.M.; and
- A copy of a Direct Request Worksheet showing unpaid rent due on November 1 and December 1, 2020.

### Analysis

I have reviewed all documentary evidence and I find that the Tenant was obligated to pay the monthly rent in the amount of \$1,000.00, as per the tenancy agreement.

In accordance with sections 88 and 90 of the *Act*, I find that the Tenant was deemed to have received the 10 Day Notice on November 18, 2020, three days after it was attached to the door or other conspicuous place.

I accept the evidence before me that the Tenant 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 the Tenant is conclusively presumed under sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on November 28, 2020, the corrected effective date of the 10 Day Notice.

Under the Direct Request process, the Landlord is entitled only to the amount of rent indicated on the 10 Day Notice. Therefore, I find the Landlord is entitled to an order of possession and a monetary award in the amount of \$1,000.00 for unpaid rent. The Landlord is at liberty to reapply for further losses under the regular dispute resolution process.

As the Landlord has been successful, I find they are also entitled to a monetary award in the amount of \$100.00 in recovery of the filing fee paid to make the application.

### Conclusion

The Landlord is granted an order of possession which will be effective two days after it is served on the Tenant. The order of possession may be filed and enforced as an order of the Supreme Court of British Columbia.

The Landlord are granted a monetary order in the amount of \$1,100.00 for rent due on November 1, 2020 and for the recovery of the filing fee paid to make this application. The monetary order must be served on the Tenant. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: January 7, 2021

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Residential Tenancy Branch