



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAHKAR HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes OPRM-DR-PP, OPRM-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 filed by the Landlord for an order of possession and a monetary order based on unpaid rent.

The Landlord submitted signed Proof of Service - Notice of Direct Request Proceeding document which declares that the Landlord served the Tenant with the Notice of Direct Request Proceeding and supporting documents on December 23, 2020 by leaving a copy at the door of the Tenant’s unit after the Tenant refused to accept and acknowledge personal service. Service in this manner was witnessed. Based on the written submissions and evidence 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 25, 2020, three days after they were left at the Tenant’s door.

However, in this type of matter, the landlord must prove they served the tenant 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 when seeking monetary relief.

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 Notice of Direct Request Proceeding and supporting documents to the door of the rental unit at which the Tenant resides. For this reason, I order that the monetary portion of the Landlord's application for unpaid rent is dismissed with leave to reapply. This aspect of the Landlord's application has not been considered further in this decision.

### Issues 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

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 October 2, 2018, indicating a monthly rent of \$1,500.00, due on the first day of each month for a fixed-term tenancy commencing on November 1, 2018.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 2, 2020 (the "10 Day Notice"), for \$1,500.00 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 December 15, 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 December 2, 2020, which service was witnessed by A.T.; and
- A copy of 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 the Tenant was obligated to pay the monthly rent in the amount of \$1,500.00, as per the tenancy agreement.

In accordance with sections 88 and 90 of the *Act*, I find that the Tenant is deemed to have received the 10 Day Notice on December 5, 2020, three days after it was posted at the Tenant's door.

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 December 15, 2020, the effective date of the 10 Day Notice.

Therefore, I find that the Landlord is entitled to an order of possession for unpaid rent which will be effective two days after it is served on the Tenant.

### Conclusion

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

I dismiss the Landlord's application for unpaid rent or utilities 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: January 14, 2021

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Residential Tenancy Branch