



# Dispute Resolution Services

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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 the Landlord served the Tenant with the Notice of Direct Request Proceeding and supporting documents by attaching a copy to the door of the Tenant’s rental unit on December 26, 2020. 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 29, 2020, three days after they were attached to the Tenant’s door.

However, 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 when considering a request for an order of possession for the landlord.

As I have determined that the Landlord has served the Notice of Direct Request Proceeding by attaching a copy to the Tenant’s door, I am unable to consider the Landlord’s request for a monetary order for unpaid rent. This aspect of the Landlord’s application is dismissed with leave to reapply. It has not been considered further in 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 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 August 13, 2019, indicating a monthly rent of \$2,200.00 due on the 15<sup>th</sup> day of each month, for a tenancy commencing on August 15, 2019;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 10, 2020 for \$8,800.00 in unpaid rent (the “10 Day Notice”). 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 20, 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 Tenant’s door on December 10, 2020, which service was witnessed by S.A.; 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 \$2,200.00, 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 13, 2020, three days after it was attached to the Tenant's door.

I accept the evidence before me that the Tenant 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 23, 2020, the corrected effective date of the 10 Day Notice.

Therefore, I find the Landlord is entitled to an order of possession. I also find the Landlord is 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's request for a monetary order for unpaid rent is dismissed with leave to reapply.

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 is granted a monetary order in the amount of \$100.00 for recovery of the filing fee paid to make the 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 26, 2021

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Residential Tenancy Branch