



# 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 signed Proof of Service Notice of Direct Request Proceeding documents which declare that the Landlord served each of the Tenants with a Notice of Dispute Resolution Hearing - Direct Request and supporting documents by registered mail on March 12, 2021. Service of these documents in this manner was supported by Canada Post receipts which included the tracking number. Pursuant to sections 89 and 90 of the *Act*, I find these documents are deemed to have been received by the Tenants on March 17, 2021, five days after they were mailed.

### 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 on January 28, 2020 and by the Tenants on February 6, 2020, indicating a monthly rent in the amount of \$3,650.00 due by the first day of each month, for a tenancy commencing on April 1, 2020;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 17, 2021 for \$10,450.00 in unpaid rent (the “10 Day Notice”). 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 January 27, 2021;
- A copy of a signed Proof of Service - Notice to End Tenancy form which indicates that the 10 Day Notice was served on the Tenants in person on January 17, 2021, receipt of which was acknowledged by the signature of N.I.; and
- A copy of a Direct Request Worksheet showing the rent owing and paid during the relevant period.

### Analysis

I have reviewed all documentary evidence and I find that the Tenants were obligated to pay monthly rent in the amount of \$3,650.00.

In accordance with sections 88 and 90 of the *Act*, I find that the Tenants are deemed to have received the 10 Day Notice on February 17, 2021, the day it was served in person.

I accept the evidence before me that the Tenants failed to pay the rent owed in full within the five days after receipt of the 10 Day Notice 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 sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on February 27, 2021, the effective date of the 10 Day Notice.

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

I also find the Landlord has demonstrated an entitlement to a monetary award in the amount of \$10,450.00 for unpaid rent. Claims are limited to what is indicated in the 10 Day Notice. However, the Landlord remains at liberty to reapply for a monetary order for any additional unpaid rent or other losses.

As the Landlord is 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 Tenants. 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 \$10,550.00 for unpaid rent and in recovery of the filing fee for this application. The monetary order must be served on the Tenants. 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: March 30, 2021

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Residential Tenancy Branch