



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR-PP, 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 by the landlord for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted two signed Proof of Service Notice of Direct Request Proceeding forms which declare that on March 22, 2021, the landlord sent each of the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipts containing the tracking numbers to confirm these mailings.

Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that Tenant E.G. is deemed to have been served with the Direct Request Proceeding documents on March 27, 2021, the fifth day after their registered mailing.

On their Application for Dispute Resolution, the landlord has indicated that Tenant D.I. moved out of the rental unit in December. As the Notice of Direct Request Proceeding was sent to the rental address, I find I am not able to confirm service of the Notice of Direct Request Proceeding to Tenant D.I.

For this reason, I will only proceed with the portion of the landlord's application naming Tenant E.G. as a respondent.

### 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 monetary compensation for unpaid rent pursuant to section 67 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 on February 5, 2020 and Tenant E.G. on February 6, 2020, indicating a monthly rent of \$2,800.00, due on the first day of each month for a tenancy commencing on March 1, 2020
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 3, 2021, for \$1,400.00 in unpaid rent. The 10 Day Notice provides that Tenant E.G. 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 March 17, 2021
- A copy of a Proof of Service Notice to End Tenancy form which was signed by Tenant E.G. and indicates that the 10 Day Notice was personally served to Tenant E.G. at 7:40 pm on March 3, 2021
- A Direct Request Worksheet

### Analysis

I have reviewed all documentary evidence and I find that Tenant E.G. was obligated to pay the monthly rent in the amount of \$2,800.00, as per the tenancy agreement.

In accordance with sections 88 of the *Act*, I find that Tenant E.G. was duly served with the 10 Day Notice on March 3, 2021.

I accept the evidence before me that Tenant E.G. 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 Tenant E.G. is 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, March 17, 2021.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent as of the date of this application, March 15, 2021.

I note that the amount of rent on the 10 Day Notice (\$1,400.00) does not match the amount of rent being requested by the landlord (\$4,900.00). I also note that the Direct Request Worksheet indicates that no payments were made after the 10 Day Notice was issued. However, on the Application for Dispute Resolution, the landlord has indicated that Tenant E.G. paid \$400.00 the day after the 10 Day Notice was issued.

I find I am not able to determine the precise amount of rent owing and for this reason the landlord's application for a Monetary Order for unpaid rent is dismissed with leave to reapply.

As the landlord was partially successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on Tenant E.G. Should Tenant E.G. and any other occupant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$100.00 for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms and Tenant E.G. must be served with **this Order** as soon as possible. Should Tenant E.G. fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I dismiss the landlord's application for a Monetary Order for unpaid rent 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: April 09, 2021

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Residential Tenancy Branch