



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes   OPU-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 based on unpaid rent or utilities.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding document which declares that the Landlord served the Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on March 24, 2021. A Canada Post receipt bearing the tracking number was submitted in support. Pursuant to sections 89 and 90 of the *Act*, I find the Tenant is deemed to have received these documents on March 29, 2021, five days after they were mailed.

### Issue to be Decided

Is the Landlord entitled to an order of possession for unpaid rent or utilities 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 parties, indicating a monthly rent in the amount of \$950.00 due on the 7<sup>th</sup> day of each month, for a tenancy commencing on February 1, 2021;
- A copy of an addendum to the tenancy agreement indicating the Tenant is responsible to pay 25% of the BC Hydro bill and 25% of the Fortis BC bill.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 8, 2021 for \$1,540.73 in unpaid rent and \$71.33 in unpaid utilities (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 March 21, 2021;
- A copy of a signed Proof of Service Notice to End Tenancy forms which indicate that the 10 Day Notice was served on the Tenant by attaching a copy to the Tenant’s door or other conspicuous place on March 8, 2021, which service was witnessed by W.L.;
- A copy of a hand-written note dated March 8, 2021 confirming utilities due in the amount of \$71.33 and that utility bills were provided to the Tenant on February 28, 2021;
- A copy of a hand-written note indicating the original utility bills were given to the Tenant; and
- A copy of a Direct Request Worksheet showing the rent and utilities owing and paid during the relevant period.

### Analysis

I have reviewed all documentary evidence and I find that the Tenant was obligated to pay monthly rent in the amount of \$950.00. I also find the Tenant is obligated to pay 25% of the BC Hydro bill and 25% of the Fortis BC bill.

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 March 11, 2021, three days after it was attached to the Tenant's door or other conspicuous place.

I accept the evidence before me that the Tenant failed to pay the rent and utilities 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 Tenant is conclusively presumed under sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on March 21, 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 Tenant.

### 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 must be served on the Tenant. The order of possession may be filed and enforced as an order of the Supreme Court of British Columbia.

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 15, 2021

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Residential Tenancy Branch