



# 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 Landlords for an order of possession and a monetary order for unpaid rent and an order granting recovery of the filing fee.

The Landlords submitted signed Proof of Service Notice of Direct Request Proceeding documents which declare that the Landlord C.L. served each of the Tenants with a Notice of Dispute Resolution Proceeding and supporting documents in person on April 7, 2021, which service was witnessed by the Landlord Y.R.S.T. I find the Tenants were served with and received these documents on April 7, 2021.

### Issues to be Decided

1. Are the Landlords entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?
2. Are the Landlords entitled to a monetary order for unpaid rent pursuant to sections 46 and 67 of the *Act*?
3. Are the Landlords entitled to recover the filing fee 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 Landlords submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed on November 18, 2020, indicating a monthly rent in the amount of \$1,650.00 due on the first day of each month, for a tenancy commencing on November 23, 2020;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 25, 2021 for \$1,650.00 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 April 4, 2021;
- A copy of a signed Proof of Service Notice to End Tenancy form which indicate that the Landlord C.L. served the 10 Day Notice on the Tenants in person on March 25, 2021, which service was witnessed by the Landlord Y.R.S.T.; 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 \$1,650.00.

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 March 25, 2021, the day after it was served on them 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 April 4, 2021, the effective date of the 10 Day Notice.

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

I also find the Landlords have demonstrated an entitlement to a monetary award in the amount of \$1,650.00 for unpaid rent. Claims are limited to what is indicated in the 10 Day Notice. The Landlords remain at liberty to reapply for a monetary order for any additional unpaid rent or other losses.

Having been successful, I also find the Landlords are entitled to recover the \$100.00 filing fee paid to make the application.

### Conclusion

The Landlords are granted an order of possession which will be effective two days after it is served on the Tenants. The order of possession must be served on the Tenants. The order of possession may be filed and enforced as an order of the Supreme Court of British Columbia.

The Landlords are granted a monetary order in the amount of \$1,750.00 for unpaid rent and in recovery of the filing fee. 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: April 27, 2021

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Residential Tenancy Branch