



# 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 for unpaid rent and to recover the filing fee.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that the Landlord served the Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on May 19, 2021, and that service in this manner was witnessed by M.S. Service by registered mail was also supported by Canada Post registered mail 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 Tenant on May 24, 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 a monetary order for unpaid rent pursuant to sections 46 and 67 of the *Act*?
3. Is the Landlord 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 Landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on October 3, 2020, indicating a monthly rent in the amount of \$1,750.00 plus parking fees in the amount of \$50.00 due on or before the first calendar day of each month, for a tenancy commencing on October 15, 2020;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 17, 2021 for \$1,800.00 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 April 27, 2021;
- A copy of a signed Proof of Service Notice to End Tenancy document which indicates that the 10 Day Notice was served on the Tenant in person on April 17, 2021. Service in this manner was witnessed by M.S. and the Tenant signed the document to confirm receipt;
- A copy of a Direct Request Worksheet showing the rent and parking fees owing 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 \$1,750.00. Parking fees are not rent.

I find that the Tenant was served with and received the 10 Day Notice on April 17, 2021, the day it was served on the Tenant in person.

I accept the evidence before me that the Tenant 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 Tenant is conclusively presumed under sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on April 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 Tenant.

I also find the Landlord has demonstrated an entitlement to a monetary award in the amount of \$1,750.00 for unpaid rent. As noted above, parking fees are not rent. The Landlord remains at liberty to reapply for a monetary order for any additional unpaid rent or other losses.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 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 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.

The Landlord is granted a monetary order in the amount of \$1850.00 for unpaid rent and in recovery of the filing fee. 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: June 10, 2021

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Residential Tenancy Branch