



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes OPR-DR, MNR-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 they served the Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on July 14, 2021. Service in this manner was 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 July 19, 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 signed residential tenancy agreement indicating a monthly rent in the amount of \$1,450.00 due on the first day of each month, for a tenancy commencing on January 1, 2019;
- A copy of a Notice of Rent Increase effective March 1, 2020 (from \$1,450.00 to \$1,486.00);
- A copy of a parking agreement dated January 1, 2021;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 4, 2021 for \$1,511.00 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 June 14, 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 by attaching a copy to the Tenant’s door on June 4, 2021, which service was witnessed by O.B.;
- 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 Tenant was obligated to pay monthly rent in the amount of \$1,486.00 plus a parking fee of \$25.00 per month. Parking fees are not rent.

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 June 7, 2021, three days after it was served on the Tenant by attaching a copy to the Tenant’s door.

I accept the evidence before me that the Tenant failed to pay the rent owed in full within 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 section 46(5) of the *Act* to have accepted that the tenancy ended on June 17, 2021, the corrected 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.

With respect to the Landlord's claim for unpaid rent, I find the Landlord included a \$25.00 parking fee in the amount of rent due on the 10 Day Notice (\$1,486.00 + \$25.00 = \$1,511.00). As noted above, parking fees are not rent. Therefore, I find the Landlord has demonstrated an entitlement to recover unpaid rent in the amount of \$1,486.00. The Landlord remains at liberty to reapply for further unpaid rent or other losses incurred in accordance with the *Act*.

As the Landlord has been successful, I find they are 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 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 \$1,586.00 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: July 20, 2021

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Residential Tenancy Branch