



# Dispute Resolution Services

Page: 1

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 Landlords for an order of possession and a monetary order for unpaid rent and to recover the filing fee.

The Landlords submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that the Landlord A.V. served the Tenant with a Notice of Dispute Resolution Proceeding in person on September 9, 2021. Service in this manner was supported by the signature of the Landlord C.V. who was a witness. I find these documents were served on and received by the Tenant on September 9, 2021, the day they were given to the Tenant in person.

### Issues to be Decided

1. Are the Landlords entitled to an order of possession for unpaid rent pursuant to section 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 signed residential tenancy agreement indicating a monthly rent in the amount of \$1,500.00 due on the first day of each month, for a tenancy commencing on October 1, 2020;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 4, 2021 for \$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 June 17, 2021;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 2, 2021 for \$500.00 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 March 15, 2021;
- A copy of an INTERAC e-Transfer to the Landlord A.V. dated March 4, 2021 in the amount of \$500.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 6, 2021 for \$300.00 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 17, 2021;
- A copy of an INTERAC e-Transfer to the Landlord A.V. dated April 11, 2021 in the amount of \$300.00;
- A copy of an INTERAC e-Transfer to the Landlord A.V. dated May 20, 2021 in the amount of \$600.00;
- A copy of a signed Proof of Service Notice to End Tenancy which indicates that the Landlord C.V. served the 10 Day Notice on the Tenant by leaving a copy in a mailbox or mail slot at the Tenant’s address on June 4, 2021, which service was witnessed by the Landlord A.V.;

- A copy of a Direct Request Worksheet showing the rent due 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 \$1,500.00.

In accordance with sections 88 and 90 of the *Act*, I find that the Tenant is deemed to have received the 10 Day Notice (dated June 4, 2021) on June 7, 2021, three days after it was left in a mailbox or mail slot at the Tenant's address.

The 10 Day Notice indicates that \$800.00 was outstanding at the time it was issued on June 4, 2021. The Direct Request Worksheet indicates that the amount set out on the 10 Day Notice was an error and that \$900.00 is outstanding. However, claims under the Direct Request Process are limited to what is indicated in the 10 Day Notice. Despite this discrepancy, I accept the evidence before me that the Tenant failed to pay the rent in full within five days after receipt of the 10 Day Notice as set out 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 effective date of the 10 Day Notice.

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

Considering the discrepancy with respect to the amount of rent due, I dismiss the Landlords' claim for unpaid rent with leave to reapply.

As the Landlords have been partially successful, I find they 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 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 Landlords are granted a monetary order in the amount of \$100.00 in recovery of the filing fee paid to make the application. 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).

The Landlords are granted leave to reapply for a monetary order for unpaid rent.

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: September 22, 2021

---

Residential Tenancy Branch