



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Brown Bros Agencies Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-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 by the landlord to obtain an Order of Possession based on unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlord on December 14, 2021.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on December 21, 2021, the landlord sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlord provided a copy of the Canada Post receipt containing the tracking number to confirm this mailing.

Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on December 21, 2021 and are deemed to have been received by the tenant on December 26, 2021, the fifth day after their registered mailing.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

### Background and Evidence

The landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on June 15, 2020, indicating a monthly rent of \$985.00, due on the first day of each month for a tenancy commencing on July 1, 2020
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated December 8, 2021, for \$985.00 in unpaid rent. 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 December 21, 2021
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door at 2:30 pm on December 8, 2021
- A Direct Request Worksheet and ledger showing the rent owing and paid during the relevant portion of this tenancy

### Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the 10 Day Notice was served on December 8, 2021 and is deemed to have been received by the tenant on December 11, 2021, three days after its posting.

Section 46 (4) of the *Act* states that within five days of a tenant receiving the 10 Day Notice, the tenant may either pay the rent or dispute the 10 Day Notice.

I find that the fifth day for the tenant to have either paid the rent or disputed the notice was December 16, 2021. I further find that the earliest date that the landlord could have applied for dispute resolution was December 17, 2021.

I find that the landlord applied for dispute resolution on December 14, 2021, before the last day that the tenant had to dispute the 10 Day Notice and that the landlord made their application for dispute resolution too early.

Therefore, the landlord's application to end this tenancy and obtain an Order of Possession based on the 10 Day Notice dated December 8, 2021 is dismissed, with leave to reapply.

Conclusion

I dismiss the landlord's application for an Order of Possession based on the 10 Day Notice dated December 8, 2021, with leave to reapply.

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: January 19, 2022

---

Residential Tenancy Branch