



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1104976 BC LTD  
and [tenant name suppressed to protect privacy]

## **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 named Landlord is a numbered company. The landlord named in the tenancy is a different corporate entity. However, the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 18, 2021 (the 10 Day Notice) and other documents confirm the corporate entity named in the tenancy agreement is an agent of the numbered company. As a result, despite the discrepancy, I find the numbered company is a Landlord for the purposes of the Act.

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 in person and by email on December 16, 2021. The Tenant's signature appears on the document as confirmation of receipt. A copy of an email from the Tenant to the Landlord dated December 16, 2021 also confirms receipt. I find these documents were served on and received by the Tenant on December 16, 2021.

### 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 April 18, 2021, indicating a monthly rent in the amount of \$1,825.00 due on or before the first day of each month, for a tenancy commencing on May 1, 2021;
- A copy of the 10 Day Notice indicating \$5,625.00 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 November 29, 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 by R.M. on November 18, 2021. Receipt of the 10 Day Notice was confirmed with an “X” being provided as the Tenant’s signature;
- A copy of Direct Request Worksheets showing the rent due as of November 18, 2021 (\$5,625.00) and a partial payment made on November 30, 2021 (\$3,650.00) during the relevant period, leaving an amount outstanding of \$1,975.00; and
- Copies of various account statements and correspondence describing the rent and “Returned Check” fees due to and after November 30, 2021.

### Analysis

I have reviewed all documentary evidence and I find that the Tenant was obligated to pay monthly rent in the amount of \$1,825.00.

In accordance with sections 88 and 90 of the Act, I find that the Tenant is deemed to have received the 10 Day Notice on November 18, 2021, the day it was served in person.

I find the 10 Day Notice complies with the form and content requirements of section 52 of the Act.

I accept the evidence before me that the Tenant failed to pay the rent owed in full and did not dispute the 10 Day Notice within five days after receipt of the 10 Day Notice granted under section 46(4) of the Act.

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 November 28, 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.

I also find the Landlord has demonstrated an entitlement to a monetary award for unpaid rent. However, the Landlord has claimed \$50.00 in “NSF fees” for each of September, October, and November 2021. Although the Residential Tenancy Regulation permits a landlord to charge a non-refundable administration fee up to \$25.00 if the tenancy agreement provides for the fee, administration fees are not rent. Therefore, I find it appropriate in the circumstances to deduct the NSF fees from the Landlord’s claim. As a result, I find the Landlord has demonstrated an entitlement to a monetary award in the amount of \$1,825.00 for rent due to November 30, 2021 (\$1,975.00 - \$150.00 = \$1,825.00). Claims under the Direct Request process are limited to what is indicated in the 10 Day Notice. The Landlord remains at liberty to reapply for a monetary order for additional unpaid rent due after November 30, 2021, 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 \$1,925.00 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: January 18, 2022

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Residential Tenancy Branch