



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding DELANEY PROPERTIES 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 January 11, 2022.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding form which declares that on January 21, 2022, 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 Customer Receipt containing the tracking number to confirm they served the tenant.

Based on the written submissions and evidence of the landlord and in accordance with sections 89(1) and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on January 21, 2022 and are deemed to have been received by the tenant on January 26, 2022, the fifth day after they were mailed.

### **Issue 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

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 landlord and the tenant on October 15, 2018, indicating a monthly rent of \$935.00, due on the first day of each month for a tenancy commencing on November 1, 2018;
- a copy of a December 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated December 2, 2021, for \$5,730.00 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 15, 2021;
- a copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the December 10 Day Notice was served to the tenant by leaving a copy in the tenant’s mailbox at 3:20pm on December 2, 2021; and;
- a copy of a Direct Request Worksheet showing the rent owing and paid during the relevant period.

### Analysis

I note that the address indicated on the December 10 Day Notice from which the tenant must move is slightly different than the tenant address on the December 10 Day Notice where documents are served, the tenancy agreement and the Application for Dispute Resolution. I have amended this address to match all other information provided for the address as per section 68(1) of the *Act* as it is reasonable to do so under the circumstances.

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the December 10 Day Notice was served on December 2, 2021 and is deemed to have been received by the tenant on December 5, 2021, three days after it was left in the tenant’s mailbox.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the five days granted under section 46(4) of the *Act* and did not dispute the December 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 the effective date of the December 10 Day Notice, December 15, 2021.

Therefore, I find that the landlord is entitled to an Order of Possession.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: February 08, 2022

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Residential Tenancy Branch