



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPU-DR, MNU-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 by the landlords to obtain an Order of Possession based on unpaid rent and utilities, to obtain monetary compensation for unpaid rent and utilities, and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlords on April 9, 2022.

The landlords submitted three signed Proof of Service Notice of Direct Request Proceeding forms which declare that on April 21, 2022, the landlords sent each tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipts containing the tracking numbers to confirm these mailings.

Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on April 21, 2022 and are deemed to have been received by the tenants on April 26, 2022, the fifth day after their registered mailing.

### Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent and utilities pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent and utilities pursuant to section 67 of the *Act*?

Are the landlords entitled to recover the filing fee for this application 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 residential tenancy agreement which was signed by the landlords and the tenants on October 17, 2021, indicating a monthly rent of \$1,200.00, due on the first day of each month for a tenancy commencing on October 17, 2021
- A copy of five utility bills from Fortis BC for the rental unit dated October 8, 2021 for \$101.41, November 8, 2021 for \$125.39, December 9, 2021 for \$132.03, January 12, 2022 for \$278.15, and February 8, 2022 for \$17.86
- A copy of two utility bills from BC Hydro for the rental unit dated December 10, 2021 for \$518.19 and February 10, 2022 for \$698.05
- A copy of a demand letter from the landlord to the tenants, dated March 8, 2022, requesting payment of utilities in the amount of \$627.43
- A copy of a witnessed Proof of Service Written Demand to Pay for Utilities form which indicates that the demand letter was posted to the tenants' door at 6:58 pm on March 8, 2022
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated February 24, 2022, for \$1,200.00 in unpaid rent and \$627.43 in unpaid utilities. The 10 Day Notice provides that the tenants 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 11, 2022
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenants' door at 6:00 pm on February 24, 2022
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy. The Direct Request Worksheet noted that, of the \$1,200.00 identified as owing in the 10 Day Notice, \$400.00 was paid on March

19, 2022, \$375.00 was paid on March 26, 2022, and \$375.00 was paid on April 9, 2022

### Analysis

I have reviewed all documentary evidence and I find that the tenants were obligated to pay the monthly rent in the amount of \$1,200.00, as per the tenancy agreement.

In accordance with sections 88 and 90 of the *Act*, I find that the 10 Day Notice was served on February 24, 2022 and is deemed to have been received by the tenants on February 27, 2022, three days after its posting.

I accept the evidence before me that the tenants have failed to pay the rent owed in full by March 4, 2022 within the five days 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 tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, March 11, 2022.

Section 46 (6) of the *Act* allows the landlords to treat the unpaid utilities as unpaid rent, 30 days after the tenants are given a written demand for them. I find that the demand letter was served the tenants on March 8, 2022, after the 10 Day Notice was issued, and that not enough time has passed to allow the landlords to treat the unpaid utilities as unpaid rent.

For this reason, the monetary portion of the landlords' application concerning unpaid utilities is dismissed, with leave to reapply.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary award in the amount of \$50.00, the amount claimed by the landlords for unpaid rent owing for February 2022.

As the landlords were partially successful in this application, I find that the landlords are entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

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

Pursuant to sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$150.00 for rent owed for February 2022 and for the recovery of the filing fee for this application. The landlords are provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I dismiss the landlords' application for a Monetary Order for unpaid utilities 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: May 18, 2022

---

Residential Tenancy Branch