



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Smallwood Pacific Properties  
Ltd and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes     OPR-DR, MNR-DR

### Preliminary Matters

I note that spelling of the tenant's name on the Application for Dispute Resolution submitted by the landlord is slightly different than the spelling of the tenant's name shown on the tenancy agreement. Section 64(3)(c) of the *Act* allows me to amend the application to reflect both versions of the tenant's name, which I have done.

### 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 and to obtain monetary compensation for unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlord on May 18, 2022.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on June 3, 2022, the landlord served the tenant the Notice of Dispute Resolution Proceeding - Direct Request in person. The landlord had the tenant sign the Proof of Service Notice of Direct Request Proceeding form to confirm personal service.

Based on the written submissions of the landlord and in accordance with section 89 of the *Act*, I find that the Direct Request Proceeding documents were duly served to the tenant on June 3, 2022.

### 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*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 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 December 18, 2018, indicating a monthly rent of \$1,250.00, due on the first day of each month for a tenancy commencing on January 1, 2019
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated April 8, 2022, for \$1,301.00 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 April 18, 2022
- A copy of a Proof of Service Notice to End Tenancy form which was signed by the tenant and indicates that the 10 Day Notice was served to the tenant in person at 5:30 pm on April 8, 2022
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy

### Analysis

I have reviewed all documentary evidence and in accordance with section 88 of the *Act*, I find that the 10 Day Notice was duly served to the tenant on April 8, 2022.

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 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 10 Day Notice, April 18, 2022.

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

I note that the amount of rent on the tenancy agreement (\$1,250.00) does not match the amount of rent being claimed on the 10 Day Notice (\$1,301.00). The Direct Request Worksheet must clearly show any additional months for which the tenant still owes rent; or, if there has been a rent increase, the appropriate Notice of Rent Increase forms

must be submitted with the Application for Dispute Resolution to substantiate the claim for the increased rent.

I find I am not able to confirm the amount of the monthly rent and for this reason the landlord's application for a Monetary Order for unpaid rent is dismissed with leave to reapply.

### 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.

I dismiss the landlord's application for a Monetary Order for unpaid rent 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: June 24, 2022

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Residential Tenancy Branch