



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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 July 26, 2022.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on July 26, 2022, the landlord served Tenant L.Y. the Notice of Dispute Resolution Proceeding - Direct Request in person. The landlord had Tenant L.Y. sign the Proof of Service Notice of Direct Request Proceeding 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 Tenant L.Y. on July 26, 2022.

The landlord has not submitted a copy of a Proof of Service Notice of Direct Request Proceeding form to establish service of the Notice of Dispute Resolution Proceeding – Direct Request to Tenant A.B. For this reason, I will only proceed with the portion of the landlord's application naming Tenant L.Y. as a respondent.

### 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

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 tenants on February 9, 2022, indicating a monthly rent of \$1,400.00, due on the first day of each month for a tenancy commencing on March 1, 2022
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 3, 2022, for \$700.00 in unpaid rent. 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 July 13, 2022
- A copy of a witnessed Proof of Service Notice to End Tenancy form which was signed by Tenant L.Y. and indicates that the 10 Day Notice was served to the tenants in person at 8:42 pm on July 3, 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 I find that Tenant L.Y. was obligated to pay the monthly rent in the amount of \$1,400.00, as per the tenancy agreement.

In accordance with section 88 of the *Act*, I find that the 10 Day Notice was duly served to Tenant L.Y. on July 3, 2022.

I accept the evidence before me that Tenant L.Y. 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 Tenant L.Y. 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, July 13, 2022.

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

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on Tenant L.Y. Should Tenant L.Y. **and any other occupant** 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: August 29, 2022

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Residential Tenancy Branch