



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 26, 2011 at 4:20 p.m. the landlord served the male tenant and on September 27, 2011 at 6:03 p.m. the landlord served the female tenant with the Notice of Direct Request Proceeding personally.

Based on the written submissions of the landlord, I find that the tenants have been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46 and 55 of the *Act*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on June 26, 2010 for a month to month tenancy beginning on July 1, 2010 for the monthly rent of \$700.00 due on the 1<sup>st</sup> of each month and a security deposit of \$350.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 15, 2011 with an effective vacancy date of September 25, 2011 due to \$700.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the month of September 2011 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally on September 15, 2011 at 5:00 p.m. and that this service was witnessed by a third party.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days, however the tenants paid the rent on the 6<sup>th</sup> day after the notice was issued. The landlord submitted confirmation that he did not reinstate the tenancy.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on September 15, 2011 and the effective date of the notice was September 25, 2011. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find 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 Notice.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: September 30, 2011.

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Residential Tenancy Branch