



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes FFL OPRM-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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on November 1, 2018, the landlords served the tenants with the Notices of Direct Request Proceeding by way of personal service via hand-delivery. The personal service was confirmed as each of the tenants acknowledged receipt of the Notice of Direct Request Proceeding by signing the Proof of Service forms.

Based on the written submissions of the landlords, and in accordance with section 89 of the *Act*, I find that the tenants have been duly served with the Direct Request Proceeding documents on November 1, 2018.

### Issues to be Decided

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

Are the landlords entitled to monetary compensation for unpaid rent 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

The landlords submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlords and the tenants April 28, 2018 indicating a monthly rent of \$1,320.00, due on the first day of each month for a tenancy commencing on May 1, 2018;
- A Direct Request Worksheet showing the rent owing and paid during the portion of this tenancy in question, on which the landlords establish a monetary claim in the amount of \$320.00 for outstanding rent, comprised of the balance of unpaid rent due by October 1, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 18, 2018, which the landlords state was served to the tenants on October 18, 2018, for \$320.00 in unpaid rent due on October 01, 2018, with a stated effective vacancy date of October 29, 2018; and
- A copy of the Proof of Service Notice to End Tenancy form asserting that the landlords served the 10 Day Notice to the tenants by way of personal service via hand-delivery on October 18, 2018. The Proof of Service form establishes that the service of the Notice was witnessed and a name and signature for the witness are included on the form.

The Notice restates section 46(4) of the *Act* which provides that the tenants had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenants did not apply to dispute the Notice within five days from the date of service and the landlords alleged that the tenants did not pay the rental arrears.

### Analysis

I have reviewed all documentary evidence and find that in accordance with section 88(a) of the *Act* the tenants were duly served with the Notice on October 18, 2018.

I find that the tenants were obligated to pay monthly rent in the amount of \$1,320.00 as established in the tenancy agreement. I accept the evidence before me that the tenants have failed to pay rental arrears in the amount of \$320.00, comprised of the balance of unpaid rent owed by October 1, 2018.

I accept the undisputed evidence of the landlords, and find that the tenants did not pay the rent owed in full within the five days granted under section 46 (4) of the *Act* and did not apply to dispute the Notice within that five-day period.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order of \$320.00 for unpaid rent owed for October 2018 as of October 26, 2018.

As the landlords were 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 find that the landlords are entitled to a Monetary Order in the amount of \$420.00 for unpaid rent owing for October 2018, and for the recovery of the filing fee for this application. The landlords are provided with these Orders 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 these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: November 08, 2018

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Residential Tenancy Branch