



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPRM – DR, FFL

### 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 and a monetary order due to unpaid rent. 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 November 22, 2018 at 2:15 p.m. the landlord served the tenant with the Notice of Direct Request Proceeding personally and this service was witnessed by a third party.

Based on the written submissions of the landlord, I find that the tenant has 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 and to recover the filing fee for the cost of this Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 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 September 1, 2017 for a month to month tenancy beginning on September 1, 2017 for the monthly rent of \$700.00 due on the “month day 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 October 7, 2018 with an effective vacancy date of October 22, 2018 due to \$2,800.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of July, August, September and October 2018 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on October 7, 2018 at 1:30 p.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

### Analysis

Direct Request proceedings are conducted when a landlord issues a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and the tenant(s) has not filed an Application for Dispute Resolution seeking to cancel the Notice within 5 days of receiving the Notice. The proceeding is conducted *ex parte* and based solely on the paperwork provided by the applicant landlord.

Because the hearing is conducted without the benefit of having a participatory hearing in which I might question either of the parties if something is unclear in the paperwork, all documents submitted must be complete and clear.

As the Tenancy Agreement stipulates that rent is due on the “month day of each month” I find that I cannot determine when rent is due in the month and that this makes this application unsuitable for adjudication through the Direct Request process. I find it necessary to convene this matter to be heard as a participatory hearing.

### Conclusion

Based on the above, I adjourn this matter to be heard at a participatory hearing.

Notices of the time and date of the participatory hearing are included with this Decision for the landlord to serve to the tenant within 3 days of receipt of this Decision. The landlord must also serve a copy of this Decision to the tenant.

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to rely upon at the participatory hearing.

If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

**Lower Mainland:** 604-660-1020

**Victoria:** 250-387-1602

**Elsewhere in BC:** 1-800-665-8779

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: December 04, 2018

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Residential Tenancy Branch