



# 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 for an Order of Possession based on unpaid rent.

The landlords submitted a signed copy of 10 Day Notice to End Tenancy for unpaid rent. Proof of Service form declares that on October 08, 2019, the landlord served the tenant with the 10 Day Notice to End Tenancy for unpaid rent by way of personal service via hand-delivery. The Proof of Service form also establishes that the service was witnessed by “IH” and a signature for “IH” is included on the form.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding form which declares that on October 20, 2019, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Section 90 of the *Act* determines that a document served in this manner is deemed to have been received five days after service.

Based on the written submissions of the landlord, and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on October 25, 2019, the fifth day after their registered mailing.

### 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

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlords and the tenants on September 01, 2019, indicating a monthly rent of \$1,000.00, due on the first day of each month for a tenancy commencing on September 01, 2019.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 08, 2019, for \$1,000.00 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 October 20, 2019.
- A copy of a signed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to the tenant FT on October 09, 2019. The personal service was confirmed as the tenant acknowledged receipt of the Notice by signing the Proof of Service form.
- 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 find that in accordance with section 88 of the *Act* the tenant was duly served with the 10 Day Notice on October 09, 2019.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,000.00, as per the tenancy agreement.

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 sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, October 20, 2019.

Therefore, I find that the landlord is entitled to an Order of Possession as of October 18, 2019, the date on which the landlord's Application for Dispute Resolution by Direct Request was submitted.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. 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.

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: October 28, 2019

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Residential Tenancy Branch