



# 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 landlords 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 landlords on September 8, 2022.

The landlords submitted two copies of a witnessed Proof of Service Notice of Direct Request Proceeding form which declares that on September 25, 2022, the landlords served tenant R.E. the Notice of Dispute Resolution Proceeding - Direct Request by posting it to the door of the rental unit.

Based on the written submissions and evidence of the landlords and in accordance with sections 89(2) and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on September 25, 2022 and are deemed to have been received by tenant R.E. on September 28, 2022, the third day after they were posted to the door.

The landlords did not submit a Proof of Service Notice of Direct Request Proceeding form to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to tenant C.D.

### Issue to be Decided

Are the landlords 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 landlords submitted the following relevant evidentiary material:

- a copy of a residential tenancy agreement which was signed by the landlords and the tenants on July 10, 2022, indicating a monthly rent of \$3,600.00, due on the first day of each month for a tenancy commencing on July 15, 2022;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated September 2, 2022, for \$3,600.00 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 September 11, 2022;
- a copy of a witnessed Proof of Service Notice to End Tenancy form signed by tenant C.D. which indicates that the 10 Day Notice was personally served to tenant C.D. at 8:38pm on September 2, 2022; and;
- a copy of a Direct Request Worksheet showing the rent owing during the relevant period.

## Analysis

In this type of matter, the landlords must prove they served the tenants with the Notice of Dispute Resolution Proceeding– Direct Request and all documents in support of the application in accordance with section 89 of the *Act* and in a manner that is considered necessary as per section 71(2) (a) of the *Act*.

Policy Guideline #12 on Service Provisions provides the following requirement:

*“Important: all parties named on an application for dispute resolution must receive notice of the proceedings. Where more than one party is named on an application, each party must be served separately. ”*

I find that the landlords did not submit a Proof of Service Notice of Direct Request Proceeding form to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to tenant C.D.

I find that I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request for tenant C.D., which is a requirement of the Direct Request process, and for this reason the portion of the landlords’ application naming tenant C.D. as a tenant is dismissed without leave to reapply.

In accordance with section 88 of the *Act*, I find that the 10 Day Notice was served to tenant R.E. on September 2, 2022.

I accept the evidence before me that tenant R.E. 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 R.E. is conclusively presumed under sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, September 12, 2022.

Therefore, I find that the landlords are entitled to an Order of Possession.

### Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on tenant R.E. Should tenant R.E. or **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: October 25, 2022

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Residential Tenancy Branch