



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

This matter proceeded by way of 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.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 12, 2013, the landlords served all three individuals named as Respondents in the landlords' application with the Notice of Direct Request Proceeding via registered mail. The landlords provided copies of the Canada Post Tracking Numbers to confirm these registered mailings.

Section 90 of the *Act* determines that a document served in this manner is deemed to have been served five days later, in this case on June 17, 2013. Based on the written submissions of the landlords, I find that the Respondents have been duly served with the Direct Request Proceeding documents.

### Issue(s) 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

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notices of Direct Proceeding sent to the Respondents;
- A copy of a residential tenancy agreement identifying the tenants as Tenant KGD and TAS, which was signed by the landlords and Tenants KGD and TAS on April 26, 2013, indicating a monthly rent of \$1,700.00, due on the first day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice), which was issued on June 2, 2013, with a stated effective vacancy date of June 12, 2013, for \$1,750.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the tenants have failed to pay all rent owed and were served the 10 Day Notice by posting on the door at 2:26 p.m. on June 2, 2013. Section 90 of the *Act* deems the tenants to have been served with the 10 Day Notice on June 5, 2013, the third day after its posting.

The Notice states that the tenants had five days from the date of deemed service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of deemed service.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlords.

I accept the evidence before me that the tenants have 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 that the tenants as identified in the residential tenancy agreement and listed on the 10 Day Notice are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the Notice. Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent.

### Conclusion

I find that the landlords are entitled to an Order of Possession effective **two days after service** on the tenants (i.e., Tenants KGD and TAS) and this Order may be filed in the Supreme Court and 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: June 18, 2013

---

Residential Tenancy Branch

