



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

This matter was conducted 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.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 28, 2013 the landlords served the tenant with the Notice of Direct Request Proceeding by posting it on the door of the Tenant's rental unit. The Proof of Service was supported by a witness signature. Section 90 of the Act determines that a document is deemed to have been served 3 days after the Notices were posted on the door or on May 31, 2013.

Based on the written submissions of the landlords, I find that the tenant has been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

### Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on September 2, 2012, indicating a monthly rent of \$700.00 due 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 18, 2013, with a stated effective vacancy date of May 31, 2013, for \$700.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenant has failed to pay rent owed when it was due and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it on the Tenant's door on May 18, 2013 at 2:33 p.m. The Act deems the tenants were served three days after posting the notice on the door or on May 21, 2013.

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

### Analysis

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

The notice is deemed to have been received by the tenant on May 21, 2013.

I accept the evidence before me that the tenant has 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 tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

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

Conclusion

I find, pursuant to section 55 of the Act, that the landlords are entitled to an Order of Possession effective **two days after service** on the tenant and the 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 03, 2013

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Residential Tenancy Branch

