



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NACEL PROPERTIES LTD.  
and [tenant name suppressed to protect privacy]

## **DIRECT REQUEST DECISION**

Dispute Codes : OPR, MNR

### Introduction

The Hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order for rental arrears.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 7, 2013, the landlord served the tenant with the Notice of Direct Request by registered mail.

Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and a monetary Order for rental arrears pursuant to 55 and 67 of the *Residential Tenancy Act (the Act)*?

### Proof of Service of 10 Day Notice to End Tenancy

The landlord submitted a copy of the Notice to End Tenancy for Unpaid Rent and a "Proof of Service" form stating that the Notice was served to the tenant by posting it on the tenant's door on July 13, 2013 at 2:00 p.m. in front of a witness.

The purpose of serving documents under the *Act* is to notify the person of a failure to comply with the Act and of their rights in response. The landlord, seeking to end the tenancy has the burden of proving that the tenant was served with the Notice to End Tenancy and I find that the landlord has met this burden.

### Background and Evidence

The landlord's application indicated that rental arrears in the amount of \$900.00 were being sought. However, in the "**Details of the Dispute**" the application requested:

"Rent Owning: \$900.00" and "Loss of Revenue for July Month: \$900.00"

This was an application to proceed by way of Direct Request Proceeding, pursuant to section 74(2)(b) of the Act and the Fact Sheet containing directions sets out the mandatory requirements for a resolution under this section.

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding and Proof of Service of the Ten-Day Notice, verifying service to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 13, 2013 for \$900.00 in rental arrears, and
- A copy of a residential tenancy agreement which was signed by the parties on April 23, 2013, confirming that the rent is \$900.00 per month, due on the first day of each month.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay \$900.00 rent owed and the landlord is seeking compensation in this amount and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

#### Analysis

Based on the evidence before me, I find that the tenant was duly served with a Notice to End Tenancy for Unpaid Rent by posting it on the tenant's door on July 13, 2013. The Notice states that the tenant has five days to pay the rent to cancel the Notice or to apply for Dispute Resolution to dispute the Notice. I find that the tenant did not apply to dispute the Notice to End Tenancy within five days and did not pay the arrears within five days.

I find that the tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Given the above facts, I find that the landlord is entitled to an Order of Possession.

Given the above, I find that the landlord is also entitled to monetary compensation for rental arrears, under section 67 of the Act, in the amount of \$900.00.

I hereby grant the landlord an Order of Possession effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I order monetary compensation to the landlord under section 67 in the amount of \$900.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is successful in the application and is granted both a monetary order and an Order of Possession.

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: July 15, 2013

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Residential Tenancy Branch

