



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Wings Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes

OPR, MNR

### 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 landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 26, 2013 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit address. The landlord provided Canada Post receipts and tracking numbers as evidence of service to each tenant. Section 90 of the Act determines that a document is deemed to have been served on the 5<sup>th</sup> day after mailing.

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

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each tenant;
- A copy of a residential tenancy agreement which was signed by the parties on October 31, 2012, indicating a monthly rent of \$1,400.00 due in advance on or before the 1<sup>st</sup> day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on August 16, 2013 with a stated effective vacancy date of August 19, 2013, for \$640.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants have failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the tenant's door on August 6, 2013 at 11 a.m. The landlord submitted a proof of service document signed by the president of the housing society, as a witness to service of the Notice. A photograph of the posted Notice as also supplied as evidence of service.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end.

The landlord has requested compensation in the sum of \$640.00 rent owed in August, 2013.

### Analysis

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

The Notice is deemed to have been received by the tenants on August 9, 2013; 3 days after posting.

I accept the evidence before me that the tenants have failed to pay the rent owed in full with in the 5 days granted under section 46 (4) of the *Act*. There was no evidence before me that the tenants disputed the Notice.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice; August 19, 2013.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid August 2013 rent in the sum of \$640.00.

I find, pursuant to section 55 of the *Act*, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenants. The Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of \$640.00 for August 2013 rent owed and I grant an Order in that amount. This Order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession and a monetary Order.

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: September 04, 2013

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Residential Tenancy Branch

