



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SUTTON ADVANTAGE PROPERTY MGMT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted by way of a Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* in response to an application made by the landlord for an Order of Possession and a Monetary Order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request which declares that on September 16, 2013 the landlord served the tenant with the Notice of Direct Request by registered mail. Section 90 of the *Act* provides that a document is deemed to have been served five days after such mailing. Based on the written submissions of the landlord, I find that the tenant has been served with the Notice of Direct Request Proceeding requesting an Order of Possession and a Monetary Order.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Has the landlord established a monetary claim against the tenant for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on May 1, 2013. The tenancy commenced on May 1, 2013 and monthly rent of \$950.00 is payable on or before the first day of each calendar month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on August 8, 2013 with an effective vacancy date of August 22, 2013 due to \$950.00 in unpaid rent due on August 1, 2013 (both pages of the 2 page form were provided as evidence);

- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities accompanied with a registered mail receipt stating the landlord served the notice to the tenant on August 8, 2013 by registered mail; and
- The Landlord's Application for Dispute Resolution which was made on September 13, 2013 claiming \$950.00 of outstanding rent for August, 2013.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord. Pursuant to Section 90 (a) of the *Act*, the notice is deemed to have been received by the tenant on August 13, 2013, being 5 days after mailing it to the tenant.

I accept the evidence before me that the tenant has failed to dispute the notice or pay the rent owed within the 5 days provided under Section 46(4) of the *Act*. Therefore, 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. I therefore find that the landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

### Conclusion

For the reasons set out above, I hereby grant an order of possession in favour of the landlord effective **2 days after service on the tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I further grant a monetary order in the amount of **\$950.00** in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act*. This order must be served on the tenant and may then be filed in the Provincial Court (Small Claims) 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: September 21, 2013

---

Residential Tenancy Branch

