



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BARTRAC HOLDINGS LTD  
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* (the '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 November 13, 2013 the landlord personally served the tenant with the Notice of Direct Request. 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 tenancy agreement which was signed by the landlord on June 29, 2010 and the tenant on August 1, 2010 for a tenancy commencing on July 1, 2010 for a monthly rent of \$1,400.00 payable on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on October 22, 2013 with an effective vacancy date of November 5, 2013 due to \$13,980.00 in unpaid rent due on October 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 stating the landlord served the notice to the tenant on October 22, 2013 by posting it to the tenant's door with a witness;
- The Landlord's Application for Dispute Resolution which was made on November 13, 2013 claiming \$13,980.00 of outstanding rent; and
- A document titled 'Schedule of Rent Payments and Arrears as at October 1, 2013'. The document details that the tenant was in rental arrears of \$2,520.00 at the end of December, 2012. The document then states that the tenant failed to pay rent for the next ten months leaving a balance of \$16,520.00. The document concludes with details of payments made by the tenant in May and September, 2013 in the amount of \$2,540.00, leaving an outstanding balance of \$13,980.00 as of October 1, 2013 which the landlord now claims.

### Analysis

I have reviewed the documentary evidence and accept that the tenant was served with the notice to end tenancy by posting it to the door. The *Act* states that documents are deemed to have been served 3 days after such posting. Therefore, I find that the tenant was deemed to be served on October 25, 2013.

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 **\$13,980.00** 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: November 15, 2013

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Residential Tenancy Branch

