



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Nacel Properties Ltd.  
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 two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on November 19, 2013, at 10:15 a.m., the Landlord's agent mailed the Notice of Direct Request Proceeding by registered mail to each of the Tenants at the rental unit. The Landlord provided a copy of the registered mail receipts and tracking numbers in evidence.

Based on the Landlord's written submissions, I find that both of the Tenants have been served with the Direct Request Proceeding documents.

### **Issue(s) to be Decided**

Is the Landlord entitled to an Order of Possession and a Monetary Order 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 of the Tenants;
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent;

- A copy of a residential tenancy agreement which was signed by the parties on January 19, 2013, indicating a monthly rent of \$1,050.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 6, 2013, with a stated effective vacancy date of November 16, 2013, for \$1,050.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants paid \$600.00 towards rent on November 9, 2013, and were provided a receipt for use and occupancy only. The remaining rent in the amount of \$450.00 remains unpaid. The documentary evidence indicates that the Landlord's agent served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the document to the Tenants' door on November 6, 2013, at 10:18 a.m. The Proof of Service document is signed by a witness.

The Tenants 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 Notice to End Tenancy was posted to the Tenants' door on November 6, 2013. Service in this manner is deemed to be effected 3 days after posting the document, in this case November 9, 2013.

I accept the evidence before me that the Tenants failed to pay the rent owed in full within the 5 days granted under Section 46 (4) of the *Act*.

Section 53 of the *Act* provides that an incorrect end-of-tenancy date on a notice to end tenancy is automatically corrected to the earliest date that complies with the *Act*. 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 November 19, 2013.

Therefore, I find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of **\$450.00**.

### **Conclusion**

Pursuant to the provisions of Section 55 of the *Act*, I hereby provide the Landlord with an Order of Possession effective **two days after service** of the Order upon the Tenants. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

Pursuant to the provisions of Section 67 of the *Act*, I hereby provide the Landlord with a Monetary Order in the amount of **\$450.00** for service upon the Tenants. This Order may 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 26, 2013

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Residential Tenancy Branch

