



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes OPR, MNR

### Introduction

This matter proceeded 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 landlords for an Order of Possession and a monetary order for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 14, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding via, posting on the door.

Section 90 of the Act determines that a document served in this manner is deemed to have been served three days later.

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

### Preliminary matter

The landlords write in their application that they seek a monetary order for unpaid rent.

In this case, the Notice of Direct Request proceeding was by posted on the tenant’s door. Under the Direct Request process when the direct request proceeding package is posted on a tenant’s door, a monetary order may not be issued through this process. As a result, the landlords’ application for a monetary order is dismissed with leave to reapply.

### Issue to be Decided

Are the landlords entitled to an order of possession?

### Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on June 23, 2013, indicating a monthly rent of \$800.00 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 2, 2013, with a stated effective vacancy date of November 15, 2013, for \$800.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door on November 2, 2013. Section 90 of the Act deems the tenant was served on November 5, 2013.

The Notice states that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end from the service date. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The landlords write in their application that they received a portion of rent for November, 2013; however, the balance of \$375.00 remains outstanding.

### Analysis

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

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

Based on the foregoing, 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. Therefore, I find that the landlord is entitled to an Order of possession.

### Conclusion

I find that the landlords are entitled to an Order of Possession effective **two days after service** on the tenant and this Order may be filed in the Supreme Court and enforced as an Order of that Court.

The landlords' application for a monetary order for unpaid rent is dismissed with leave to reapply.

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 19, 2013

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Residential Tenancy Branch

