



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SUTTON GROUP - PROACT REALTY  
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* (referred to as the “Act”) in response to a landlord’s application 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 the landlord served each tenant with the Notice of Direct Request by registered mail on January 24, 2014. The landlord provided both Canada Post tracking numbers as evidence for this method of service. Section 90 of the Act states that a document served by mail is deemed to have been received 5 days later. Based on this, I find that the tenants were served with the Notice of Direct Request Proceeding.

### 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 tenants for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on January 6, 2014 with an effective vacancy date of January 11, 2014 due to \$5,200.00 in unpaid rent due on January 1, 2014 (both pages were provided);
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities showing the landlord served the notice to each tenant on January 6, 2014, by registered mail. The Canada Post tracking numbers were provided;
- A copy of a tenancy agreement signed by the landlord and the tenants on July 29, 2013 for a tenancy commencing on August 1, 2013 for the monthly rent of \$1,500.00 payable on the first day of each month; and

- The Landlord's Application for Dispute Resolution which was made on January 24, 2014 claiming \$5,200.00 in outstanding rent as follows: \$200.00 for August, 2013; \$500.00 for September, 2013; and \$1,500.00 each for the months of October, 2013, December, 2013 and January, 2014.

### Analysis

I have reviewed all the documentary evidence and I accept that the tenants were served by the landlord with the notice to end tenancy by registered mail based on the Canada Post tracking numbers provided as evidence for this method of service. In accordance with Section 90 of the Act, I find that the tenants are deemed to have received the notice on January 11, 2014 and the effective date of vacancy on the notice to end tenancy is automatically changed to January 22, 2014 pursuant to section 53 of the Act.

I accept the evidence before me that the tenants have failed to dispute the notice or pay the full rent owed within the 5 days provided under Section 46(4) of the Act. Therefore, 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. 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 favor of the landlord effective **2 days after service on the tenants**. 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 **\$5,200.00** in favor of the landlord pursuant to Section 67 of the Act. 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.

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: January 30, 2014

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Residential Tenancy Branch

