



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BROWN BROS. AGENCIES LIMITED  
and [tenant name suppressed to protect privacy]

## **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 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 Proceeding which declares that on December 16, 2013, the landlord served the tenants with the Notice of Direct Request Proceeding via registered mail. Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later.

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

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 46, 55 and 67 of the Act.

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on November 24, 2012, indicating a monthly rent of \$875.00 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 December 5, 2013, with a stated effective vacancy date of December 15, 2013, for \$1,900.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants had failed to pay all rent owed for two months and were served the 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery, which was signed for by one of the tenants on December 5, 2013. Under the Act, service on one tenant is sufficient for notice to both tenants in this instance.

The Notice states that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. 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 the tenants have been served with notice to end tenancy as declared by the landlord. I accept the evidence before me that the tenants have 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 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. Therefore, I find that the landlord is entitled to an Order of possession.

As for the monetary Order for unpaid rent, the Direct Request process requires sufficient documentation from the Landlord to support all claims that are being made.

In this instance the Landlord is alleging the rent was increased from \$875.00 to \$950.00 during the tenancy; however, no Notice(s) of rent increase(s) were supplied in evidence to support that the rent was increased in accordance with the Act. For these reasons, I allow the Landlord to recover the tenancy agreement amount for rent in the amount of \$875.00 for two months, rather than the requested \$950.00. The Landlord has leave to reapply through the participatory hearing process to recover any additional rent money that might be owed by the tenants.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenants and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of **\$1,750.00** comprised of rent owed for two months under the original tenancy agreement. 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.

The Landlord has leave to apply for further monetary claims.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 16, 2014

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Residential Tenancy Branch

