



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT INC  
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 February 5, 2014 the landlord personally served the tenant with the Notice of Direct Request Proceeding. 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 residential tenancy agreement which provides the landlord's name (a company) and the landlord's agent (another company). The agreement was signed by the landlord and the tenant on September 3, 2013 for a tenancy commencing on the same day. Rent on the agreement was established at \$425.00 payable by the tenant on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on January 27, 2014 with an effective vacancy date of February 5, 2014 due to

\$1,289.00 in unpaid rent due on January 1, 2014 (both pages of the 2 page approved form were provided as evidence). The notice details the landlord's name as well as the landlord's agent's name.

- 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 January 27, 2014 by posting it to the tenant's door with a witness;
- The Landlord's Application for Dispute Resolution which was made on February 5, 2014 by the landlord's agent claiming \$1,289.00 of unpaid rent for November and December, 2013 and January, 2014. The application also states that the landlord's agent is acting on behalf of the landlord in collecting rent and monies owed; and,
- A Resident Ledger relating to rent payments made by the tenant throughout the tenancy which indicates that the tenant also owed the landlord \$14.00 in unpaid rent prior to November, 2013 which has been included in the landlord's agent's monetary claim amount.

### Analysis

I have reviewed the documentary evidence and I accept that the landlord's agent, who made this application, is acting on behalf of the landlord as evidenced by the written tenancy agreement and the notice to end tenancy.

I also find that the tenants were served with the notice to end tenancy by posting it to the tenant's door with a witness. 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 the notice on January 30, 2014, and the effective date of vacancy is automatically changed to February 9, 2014 pursuant to Section 53 of the Act.

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. As a result, 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 **February 9, 2014 at 1:00 p.m.** This order may then be filed and enforced in the Supreme Court as an order of that court if the tenant fails to vacate.

I further grant a Monetary Order in the amount of **\$1,289.00** in favor of the landlord pursuant to Section 67 of the 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 if the tenant fails to make payment.

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: February 07, 2014

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Residential Tenancy Branch

