



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding AL STOBER CONSTRUCTION LTD.  
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 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 February 12, 2014 and provided both the Canada Post tracking numbers. Section 90 of the Act states that a document served by mail is deemed to have been received 5 days after it is mailed. Based on this, I find the Tenants were deemed served with the Notice of Direct Request Proceeding on February 17, 2014.

### 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 tenancy agreement signed by the Landlord and the Tenants on August 1, 2013 for a tenancy commencing on the same day for the monthly rent of \$1,000.00 payable in advance on or before the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on February 2, 2014 with an effective vacancy date of February 12, 2014 due to \$1,020.00 in unpaid rent due on February 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 which states that the Landlord served the notice to the Tenants on February 2, 2014, by posting it to the Tenants' door with a witness; and

- The Landlord's Application for Dispute Resolution made on February 12, 2014 claiming outstanding rent of \$1,000.00 for February, 2013. The Landlord explains that the \$20.00 on the notice to end tenancy relates to an insufficient funds fee.

### Analysis

I have reviewed the documentary evidence and I accept that the Tenants were served with the notice to end tenancy, which complied with the Act, by attaching it to the Tenants' door with a witness. The Act states that documents served this way are deemed to have been received 3 days after being attached to the door. Therefore, I find that the Tenants were deemed to be served the notice to end tenancy on February 5, 2014 and the effective date of vacancy on the notice is automatically corrected to February 15, 2014 pursuant to section 53 of the Act.

I accept the evidence before me that the Tenants 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 Tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the corrected 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 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 **\$1,000.00** 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: March 11, 2014

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Residential Tenancy Branch

