



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlords for an Order of Possession for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 26, 2014, at 11:55 a.m. the Landlords served each Tenant by registered mail. I note that the proof of service form for R.F.H.J. indicates the package was sent February 26, 2012, which I find to be an obvious clerical error as the Canada Post receipt displays the correct year of 2014. The Canada Post receipts were provided in the Landlords' evidence. Based on the written submissions of the Landlords, I find that each Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on March 3, 2014, in accordance with section 90 of the Act.

### Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlords:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a one year fixed term tenancy beginning December 1, 2013, for the monthly rent of \$900.00 due on the 1st of the month;
- A copy of a monetary order pertaining to a hearing that was held on February 7, 2014, where the Landlords were granted compensation for unpaid rent. During

this hearing the 10 Day Notice that was issued in January 2014 was found to be invalid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 7, 2014, with an effective vacancy date listed as February 17, 2014, due to \$1,800.00 in unpaid rent that was due on February 1, 2014.

Documentary evidence filed by the Landlords indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on February 7, 2014, at 12:29 p.m., when it was posted to their door, in the presence of a witness.

### Analysis

**Order of Possession** - I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenants on February 10, 2014, three days after it was posted, and the effective date of the notice is February 20, 2014, pursuant to section 90 of the *Act*. 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. Accordingly, I hereby grant the Landlords an Order of Possession.

### Conclusion

I HEREBY FIND that the Landlords are entitled to an Order of Possession effective **two days after service on the Tenants**. This Order is legally binding and must be served upon the Tenants.

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 05, 2014

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Residential Tenancy Branch

