



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROMPTON REAL ESTATE SERVICES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR & MNR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 07, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy Act determines that a document is deemed to have been served on the fifth day after it was sent.

Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on November 23, 2012 for a tenancy beginning December 01, 2012 for the monthly rent of \$1,550.00 due on the 1st of the month; and



- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 24, 2014 with an effective vacancy date of March 05, 2014 due to \$1,608.00 in unpaid rent.
- Copy of dishonored cheque for February for \$1,608.00

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the month of February and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenants rental unit on February 24, 2014 and therefore is deemed served three days later.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with Notice to End Tenancy as declared by the landlord. The Notice is deemed to have been received by the tenant on February 27, 2014 and the effective date of the Notice is amended to March 09, 2014 pursuant to section 53 of the *Act*. The tenancy agreement indicates rent is \$1,550.00 per month whereas the landlord's application indicates that the rent payable for February is \$1,608.00. Where rent has been legally increased since the tenancy commenced it is necessary for the landlord to provide evidence of such rent increases to substantiate rent owing is greater than that indicated in the tenancy agreement or other evidence to substantiate the amount of rent claimed by the landlord. The landlord has provided a copy of the dishonored cheque for Februarys.

Rent I will therefore accept that rent due on February 01, 2014 was \$1,608.00.

I accept the evidence before me that the tenant has 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 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.

### Conclusion

I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*, effective **two days after service on the tenant**. This Order must be served on the tenant and 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 to section 67 of the *Act*, in the amount of **\$1,608.00** for rent owed. This Order must be served on the tenant 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 17, 2014

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Residential Tenancy Branch



