



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NACEL PROPERTIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes

OPR, MNR

### Introduction

The landlord applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the “Act”).

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding for each tenant to declare that on March 25, 2014 the landlord sent a Notice of Direct Request Proceeding to each tenant at the rental unit address via registered mail. The landlord included the registered mail receipts, including tracking numbers, as proof of service. Section 90 of the Act deems a person to receive documents five days after mailing.

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

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on November 30, 2010 for a tenancy set to commence on January 1, 2011 for the monthly rent of \$775.00 due on the 1<sup>st</sup> day of every month;
- A “parking agreement” requiring the tenants to pay rent of \$30.00 for a parking space;
- A copy of a Notice of Rent Increase increasing the monthly rent from \$775.00 to \$808.00 effective February 1, 2012;

- A copy of the tenants' ledger account showing an outstanding balance of \$893.00 that includes unpaid rent of \$808.00 for March 2014, unpaid parking fees for two months, and a late fee of \$25.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 4, 2014 with a stated effective vacancy date of March 14, 2014, for \$893.00 in unpaid rent as of March 1, 2014; and,
- A copy of a Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenant's door on March 4, 2014 in the presence of a witness.

The 10 Day Notice states that the tenants had five days to pay the rent 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.

In the details of dispute the landlord states that the tenant failed to pay rent of \$808.00 and parking of \$30.00 for March 2014 and requested a Monetary Order for the sum of \$838.00.

### Analysis

I have reviewed all documentary evidence and accept that the tenants were served with a 10 Day Notice to End Tenancy as declared by the landlord. Since it was posted on the door it is deemed to have been received by the tenants three day later under section 90 of the Act. Pursuant to section 53 of the Act, the effective date of the Notice automatically changes to comply with the Act and reads March 17, 2014

I accept the evidence before me that the tenants failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the Act. Accordingly, 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 tenancy ended March 17, 2014 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenants.

Since a Monetary Order issued under the Direct Request procedure is limited to unpaid rent only, I provide the landlord with a Monetary Order for unpaid rent in the amount of \$808.00 and I dismiss the landlord's claims for parking fees with leave to reapply.

The security deposit remains in trust to be administered in accordance with the Act.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenants. The landlord has been provided a Monetary Order in the amount of \$808.00 for unpaid rent for the month of March 2014.

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: April 02, 2014

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Residential Tenancy Branch

