



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROYAL OAK APARTMENTS 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 which declares that on April 7, 2014 the landlord sent the Notice of Direct Request Proceeding to the tenant via registered mail at the rental unit. The landlord provided a copy of the registered mail receipt, including tracking number, as proof of service. Section 90 of the Act deems a person to have received documents five days after mailing.

Based on the written submissions of the landlord, I find that the tenant is deemed to 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 March 1, 2009, indicating a monthly rent of \$600.00 due on the 1<sup>st</sup> day of every month on a month-to-month basis;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 24, 2014 with a stated effective vacancy date of April 3, 2014, for \$2,200.00 in unpaid rent as of March 1, 2014;

- 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 24, 2014 in the presence of a witness; and,
- A copy of the tenant's ledger showing the balance of \$2,200.00 is comprised of \$2,100.00 in unpaid rent for the months of December 2013 through March 2014 plus \$100.00 in late fees.

The 10 Day 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 from the date of service.

In the details of dispute the landlord states that rent remains outstanding and the rental unit is still occupied.

### Analysis

I have reviewed all documentary evidence and accept that the tenant was served with a 10 Day Notice to End Tenancy as declared by the landlord. Since the 10 Day Notice was posted on the tenant's door it is deemed to be received three days later pursuant to section 90 of the Act. Therefore, the effective date automatically changes to read April 6, 2014 under section 53 of the Act.

I accept the evidence before me that the tenant 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 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. Therefore, I find that the tenancy ended April 6, 2014 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$2,100.00 for the months of December 2013 through March 2014. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court.

I make no award for late fees as monetary awards granted under the Direct Request procedure are limited to unpaid rent only. The landlord's claims for late fees are dismissed with leave to reapply.

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

### Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the amount of \$2,100.00 to serve upon the tenant.

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 15, 2014

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Residential Tenancy Branch

