

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding JOE MARINO MASONRY  
and [tenant name suppressed to protect privacy]

## **DECISION**

RTB-136

### **Dispute Codes**

OPR, MNR

### **Introduction**

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 14, 2014, the landlord served each of the tenants with the Notice of Direct Request Proceeding by registered mail – deemed by Section 90 of the Act to have been received 5 days after it was sent. Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents.

### **Issue(s) to be Decided**

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent pursuant to sections 46, and 55 of the Act.

### **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 tenants;
- A copy of a residential tenancy agreement which was signed by the parties on March 04, 2014 indicating a monthly rent of \$1100.00 due on the first day of the month.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated April 03, 2014 personally given to the tenants on the same date, stating the total amount of unpaid arrears of rent due on April 01, 2014 as \$1225.00. The landlord claims the tenant has not paid the amount owed.

- Documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent. The Notice states that the tenant had five days to pay all of the outstanding arrears of rent in full or apply for Dispute Resolution or the tenancy would end 10 days from the received date. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

### **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. I accept the evidence before me that the tenant has failed to pay the arrears in 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. Therefore, I find that the landlord is entitled to an **Order of Possession**. The landlord is further entitled to a Monetary Order for the unpaid rent as requested in their Direct Request application in the amount of **\$1225.00**.

### **Conclusion**

I find that the landlord is entitled to an **Order of Possession** effective **two days after service** on the tenant and this Order may be filed in the Supreme Court and enforced as an Order of that Court.

I grant the landlord a Monetary Order under Section 67 of the Act for the amount of **\$1225.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision and Order is final and binding on the parties.**

*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 23, 2014

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Residential Tenancy Branch