



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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 landlords for an order of possession for unpaid rent and a monetary order for unpaid rent.

The landlords submitted a signed proof of service of the notice of direct request proceeding which declares that on May 15, 2014, the landlords served the tenants with the notice of direct request proceeding via registered mail.

Section 90 of the *Act* determines that a document served in this manner is deemed to have been served five days later.

Based on the written submissions of the landlords, I find that the tenants have been duly served with the direct request proceeding documents as of May 20, 2014.

### Issues to be Decided

- Are the landlords entitled to an order of possession for unpaid rent?
- Are the landlords entitled to a monetary order for unpaid rent?

### Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the proof of service of the notice of direct proceeding for both tenants including two registered mail customer receipts with tracking numbers;

- A copy of a residential tenancy agreement which was signed by the parties on July 24, 2012, indicating a monthly rent of \$1,400.00 due on the first day of the month; and
- A copy of a 10 day notice to end tenancy for unpaid rent which was issued on May 4, 2014, with a stated effective vacancy date of May 15, 2014, for \$2,400.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenants had failed to pay the rent owed and were served the 10 day notice to end tenancy for unpaid rent by posting to the tenants' door on May 4, 2014 at 12:45 p.m., which was witnessed by third party, "HS". Section 90 of the *Act* deems the tenants were served three days later on May 7, 2014 which would correct the above-mentioned effective vacancy date to May 17, 2014.

The notice states that the tenants had five days to pay the rent in full or apply for dispute resolution or the tenancy would end 10 days from the service date. The tenants did not apply to dispute the notice to end tenancy within five days from the date of service.

The landlords indicate that the tenants paid \$400.00 of the \$1,400.00 rent owing for April 2014, and continue to owe \$1,400.00 for May 2014 rent.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlords.

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 corrected effective date of the notice, May 17, 2014. Therefore, I find that the landlords are entitled to an order of possession and a monetary order for unpaid rent.

### Conclusion

I find that the landlords are entitled to an order of possession effective **two (2) days after service** on the tenants and this order may be filed in the Supreme Court and enforced as an order of that court.

I find that the landlords are entitled to monetary compensation pursuant to section 67 in the amount of **\$2,400.00** comprised of rent owed.

This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: May 22, 2014

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Residential Tenancy Branch

