



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REALTY EXECUTIVES VANTAGE  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted by way of a Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act") in response to an application made by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request which declares that on May 26, 2014 the Landlord served the Tenant with the Notice of Direct Request by registered mail pursuant to section 89(1) (c) of the Act. The Landlord provided a copy of the Canada Post tracking receipt as evidence for this method of service. Section 90(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail or use this as grounds for a review. As a result, I find that the Tenant was deemed served with Notice of Direct Request Proceeding on May 31, 2014.

### Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Has the Landlord established a monetary claim for unpaid rent?

### Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the Tenant on October 23, 2010 and the Landlord on November 1, 2010 for a tenancy commencing on November 1, 2010; monthly rent is \$550.00 payable by the Tenant on the first day of each month.
- A letter dated May 21, 2014 explaining that the company named in this application took over the management of the rental suite on September 1, 2012.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on May 2, 2014 with an effective vacancy date of May 15, 2014 due to \$2,200.00 in unpaid rent due on May 1, 2014 (both pages were provided);

- A copy of the Proof of Service of the Notice which declares the Notice was served on May 2, 2014 by attaching it to the Tenant's door with a witness;
- The Landlord's Application for Dispute Resolution made on May 21, 2014 claiming \$2,200.00 in outstanding rent; and
- A 'Transaction Listing' document which outlines the payments and lack of payments made by the Tenant since October, 2012 which led to an outstanding amount of \$2,200.00 in unpaid rent.

### Analysis

Based on the letter provided by the Landlord named in the Application, I am satisfied that the Landlord took over management of the rental suite in 2012, thus becoming the Landlord of the Tenant in this tenancy.

I have reviewed the documentary evidence and accept that the Landlord served the Tenant with a Notice that complied with the Act, by attaching it to the Tenant's door with a witness on May 2, 2014. The Act states that documents served this way are deemed to have been received three days after being attached to the door. Therefore, I find that the Tenant was deemed to be served the Notice on May 5, 2014.

I accept the evidence before me that the Tenant has failed to dispute the Notice or pay the outstanding rent owed within the five days provided under section 46(4) of the Act. Therefore, 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 and the Landlord is entitled to an Order of Possession and a Monetary Order.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlord effective **2 days after service on the Tenant**. This order may then be enforced in the Supreme Court as an order of that court.

I also grant the Landlord a Monetary Order in the amount of **\$2,200.00** pursuant to section 67 of the Act. This order must be served on the Tenant and may then 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 Act.

Dated: June 01, 2014

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Residential Tenancy Branch

