



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes OPR

#### 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 based on unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 16, 2014, the landlord served the tenant KB, with the Notice of Direct Request Proceeding via posting on the door.

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

Based on the written submissions of the landlord, I find that the tenant KB, has been duly served with the Direct Request Proceeding documents.

#### Preliminary matter

In the landlord's application there are two respondents listed KB, and DM. The landlord has not submitted a signed Proof of Service that the respondent DM was served.

Therefore, this hearing proceeded against the tenant KB. However, it should be noted if the tenancy ends for KB, then tenancy legally ends for both tenants as this is a joint tenancy under the tenancy agreement.

#### Issue(s) to be Decided

Is the landlord 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 Proceeding for the tenant;

- A copy of a residential tenancy agreement which was signed by the parties on February 15, 2014, indicating a monthly rent of \$865.00 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 June 2, 2014 with a stated effective vacancy date of June 15, 2014, for \$865.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by registered mail sent on June 2, 2014. Section 90 of the Act deems the tenants were served on June 7, 2014, which automatically corrects the above effective vacancy date to June 25, 2014. A Canada post tracking number was submitted as evidence.

The Notice states that the tenants had five days from the date of service to pay the rent in full 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.

### Analysis

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

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 effective date of the Notice. Therefore, I find that the landlord is entitled to an Order of possession for unpaid rent.

### Conclusion

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

Dated: June 25, 2014

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Residential Tenancy Branch

