



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS LTD  
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 a Landlord’s application 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 July 4, 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 reason alone as grounds for a review. As a result, I find that the Tenant was deemed served with Notice of Direct Request Proceeding on July 9, 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 against the Tenant for unpaid rent?

### Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the Landlord and the Tenant on July 31, 2007 for a tenancy commencing on August 1, 2007. Rent in the amount of \$1,150.00 is payable by the Tenant in advance on the first day of each month;

- A Notice of Rent Increase, dated June 12, 2008 showing the rent at the time was \$1,150.00 and was being increased by \$30.00 to \$1,180.00, payable by the Tenant starting on October 1, 2008;
- A copy of a 2 page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on May 6, 2014 with an effective vacancy date of May 16, 2014 due to \$1,180.00 in unpaid rent due on May 1, 2014;
- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to the Tenant on May 6, 2014 by attaching it to the Tenant's door with a witness who signed to verify this method of service;
- The Landlord's Application for Dispute Resolution made on July 3, 2014 claiming unpaid rent of \$1,180.00 for May, 2014; and
- A document indicating a change in the Landlord's company name documented on the tenancy agreement to the company name of the Landlord documented on the Application.

### Analysis

Based on the document provided by the Landlord named in the Application, I am satisfied that the Landlord has remained the same and that there has only been a change in the Landlord's company name from the one named in the tenancy agreement to the one named in the Application.

I also accept that the rent amount payable under the tenancy agreement changed in 2008 from \$1,150.00 to \$1,180.00 as evidenced by the Notice of Rent Increase.

I have reviewed the documentary evidence and I accept that the Tenant was served with the Notice on May 6, 2014, which complied with the Act, by attaching it to the Tenant's door with a witness who verified this method of service.

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 9, 2014 and the effective date of vacancy on the Notice is automatically corrected to May 19, 2014 pursuant to Section 53 of the Act.

I accept the evidence before me that the Tenant failed to dispute the Notice or pay the outstanding rent 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 corrected vacancy date of the Notice. As a result, the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

In the document provided by the Landlord in relation to the company name change, the Landlord requests the Residential Tenancy Branch to update their records in relation to this name change. However, the LL is cautioned that every case is based on its own merits and this document cannot serve as a blanket document for proof of a name change for all future applications made by the Landlord. A Landlord making an application through the Direct Request process is required to submit evidence for each case if there is a discrepancy in the name of a Landlord within the written evidence being provided to support the application. It may be more appropriate for the Landlord to advise their staff making applications through the Direct Request process of this requirement.

### 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 filed and enforced in the Supreme Court as an order of that court.

I further grant a Monetary Order in the amount of **\$1,180.00** in favor of the Landlord pursuant to Section 67 of the Act. This order must be served on the Tenant and may 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: July 10, 2014

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Residential Tenancy Branch

