



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PACE PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DIRECT REQUEST DECISION**

Dispute Codes: OPR, MNR

### Introduction

This application proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act. The landlord seeks an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 14, 2014 at 11:46 a.m., the landlord served each tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy Act, (*the Act*), determines that a document is deemed to have been served on the fifth day after it was sent.

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

### Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession and a monetary Order?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding and Proof of Service of the Ten-Day Notice, verifying service to the tenant,
- A copy of a 10 Day Notice dated July 2, 2014 for \$1,807.60 in rental arrears, and
- A copy of a residential tenancy agreement which was signed by the parties on September 5, 2013, confirming that the rent is \$700.00 per month.

Documentary evidence filed by the landlord indicates that the tenant had fallen into arrears in rent and accrued a debt of \$1,807.60. The landlord seeks this amount and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

### Analysis

Based on the evidence before me, I find that the tenant was duly served with a Notice to End Tenancy for Unpaid Rent by posting it on the tenant's door on July 2, 2014. The Notice states that the tenant has five days to pay the rent to cancel the Notice or to apply for Dispute Resolution to dispute the Notice. I find that the tenant did not apply to dispute the Notice to End Tenancy within 5 days and did not pay the arrears.

I find that the tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Given the above facts, I find that the landlord is entitled to an Order of Possession.

With respect to the monetary claim, I find that the tenancy agreement contains a noncompliant term imposing late fees of up to \$50.00. The landlord provided a ledger documenting the charges and payments on the tenant's rental account and I find that the tenant was charged \$50.00 as a late fee during the tenancy.

With regard to late payment fees I find that section 7(1) (d) of the *Residential Tenancy Regulation*, (the *Regulation*), provides that a landlord can charge an administration fee of not more than \$25.00 for late payment of rent.

Because the rent ledger confirms that the tenant was charged a late fee that contravenes the Act, I find that this may affect the amount of rental arrears that can validly be claimed by the landlord. For this reason, I find it necessary to dismiss the monetary claim and I do so with leave to reapply.

I hereby grant the landlord an Order of Possession effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

### Conclusion

The landlord is partly successful in the application and is granted an Order of Possession. The landlord's monetary claim is dismissed with leave to reapply.

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: August 06, 2014

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Residential Tenancy Branch