



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## 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 Proceeding which declares that the Landlord served both Tenants together with these documents by registered mail to the Tenants’ address on September 10, 2014.

The Proof of Service document clearly outlines the Landlord’s requirements to serve each respondent **individually** with a **separate** Proof of Service document which the Landlord failed to do, instead addressing one set of documents to both Tenants.

As a result, I have to look to other evidence in order to establish whether the Landlord has satisfied service in accordance with the Act. The Landlord provided the Canada Post tracking receipt as evidence relating to the manner of service on the Tenants. The Canada Post website indicates that one of the Tenants, referred to as “LP”, received and signed for the documents on September 11, 2014. Therefore, I find that the Landlord has served LP with the required documents in accordance with Section 89(1) (c) of the Act.

As the Landlord has only proved service of the Notice of Direct Request to LP in accordance with the Act, any subsequent Monetary Order issued to the Landlord will only be in the name of LP as Monetary Orders apply to individuals served.

As the Landlord has successfully served the documents to the rental unit address, any subsequent Order of Possession will be against both Tenants as the Order of Possession applies to the rental unit as oppose to a particular individual.

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 Tenants on February 24, 2014 for a tenancy commencing on March 1, 2014 for a monthly rent of \$1,250.00 payable by the Tenants on the first day of each month;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on September 3, 2014 with an effective vacancy date of September 13, 2014 due to \$1,250.00 in unpaid rent due on September 1, 2014;
- A copy of the Proof of Service of the Notice showing the Landlord personally served it to one of the Tenants on September 3, 2014 with a witness who signed the document to verify this method of service; and
- The Landlord's Application for Dispute Resolution made on September 10, 2014 claiming unpaid rent of \$1,250.00 for September, 2014.

Analysis

I have reviewed the documentary evidence and accept that the Tenants were personally served with the Notice pursuant to Sections 88(a) and (e) of the Act, in the presence of a witness on September 3, 2014 as declared on the Proof of Service document.

I accept the evidence before me that the Tenants have failed to dispute the Notice or pay the rent owed for September, 2014 within the five days provided under Section 46(4) of the Act. Therefore, I find that the Tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the vacancy date of the Notice.

As a result, I find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

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 Tenants**. 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 **\$1,250.00** 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 *Residential Tenancy Act*.

Dated: September 16, 2014

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Residential Tenancy Branch

