



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TOP PRODUCERS REALTY LTD. PM DIVISION  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes

OPR, MNR

### Introduction

The landlord applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 18, 2014 Notice of Direct Request Proceeding and supporting documents were sent to each tenant by registered mail at the rental unit. The landlord provided registered mail receipts, including tracking numbers, as proof of service. Section 90 of the Act deems a person to have received documents five days after mailing.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Are the landlords entitled to an Order of Possession and monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted copies of the following evidentiary material:

- A residential tenancy agreement which was signed by the parties on March 20 and 21, 2014, indicating a monthly rent of \$950.00 due on the 1<sup>st</sup> day of every month;
- A 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 3, 2014 with a stated effective vacancy date of September 16, 2014, for \$1,460.00 in unpaid rent as of September 1, 2014;

- A Proof of Service of the 10 Day Notice indicating the landlord personally served the female tenant with the 10 Day Notice on September 3, 2014 in the presence of a witness;
- A Monetary Order worksheet indicating the tenants owed \$1,460.00 in rent for September 2014 less partial payments of \$900.00 and \$200.00 for a net balance outstanding of \$360.00 for the month of September 2014; and,
- Receipts issued to the tenants on September 9, 2014 and September 17, 2014 for the partial payments of \$900.00 and \$200.00 which were accepted for use and occupancy only.

The 10 Day Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants 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 I accept that the tenants were served with the 10 Day Notice on September 3, 2014, as declared by the landlord. As such, the tenants had until September 8, 2014 to pay the rent or file to dispute the Notice.

I accept the evidence before me that the tenants failed to pay any of the rent owed for September 2013 by September 8, 2014; therefore, I find the tenancy ended on the stated effective date of September 16, 2014 and the landlord is entitled to regain possession of the rental unit. Provided to the landlord is an Order of Possession effective two (2) days after service upon the tenants.

With respect to the landlord's monetary claim, I find the landlord failed to provide sufficient information to explain the reason the landlord has indicated rent payable for September 2014 was \$1,460.00 considering the tenancy agreement provides that the monthly rent is \$950.00. The landlord did not indicate on the Monetary Order worksheet, or provide a tenant's ledger, that the balance of \$1,460.00 included rent owed for a preceding month. Therefore, I find I am unable to conclude that the balance of \$1,460.00 is comprised of rent only as opposed to other charges that are not claimable under the Direct Request procedure. Since the Direct Request procedure is based upon the landlord's written submissions only, the submissions must be sufficiently clear, complete and valid in order to succeed. Therefore, I dismiss the landlord's monetary claim with leave to reapply.

### Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenants. The landlord's monetary claim has been dismissed with leave.

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 25, 2014

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Residential Tenancy Branch

