



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding First United Church Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### 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 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 on September 18, 2014, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail.

Section 90 of the Act determines that a document served in this manner is deemed to have been received 5 days after service.

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

### Issues to be Decided

Is the landlord entitled to an order of possession?  
Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the landlord on August 23, 2013 but was not signed by the tenant, indicating that the tenant is obligated to pay \$710.00 in rent in advance on the first day of the month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which the landlord served on the tenant on August 22, 2014 for \$1,330.00 in unpaid rent due in the months of June, July and August; and
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice on the tenant by posting the Notice to the door of the rental unit.

Section 90 of the Act provides that because the Notice was served by posting, the tenant is deemed to have received the Notice 3 days later on August 25, 2014.

The Notice restates section 46(4) of the Act which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

### Analysis

The landlord submitted a tenancy agreement which the tenant did not sign. Without oral testimony, it is not possible for me to find that the tenant agreed to pay rent each month and as unpaid rent is the foundation for the Notice, I am unable to make a decision on the validity of the Notice.

I dismiss the landlord's application with leave to reapply. The landlord is free to file a claim which can be heard at a participatory hearing as the claim cannot be determined without testimony to support the landlord's allegations.

### Conclusion

The 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: September 25, 2014

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Residential Tenancy Branch

