



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BMG HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      OPR & MNR

### Introduction

This matter was conducted 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 due to unpaid rent and utilities.

The Direct Request process is a mechanism that allows the landlord to apply for an expedited decision without a participatory hearing. As a result, the landlord must follow and submit documentation **exactly** as the *Act* prescribes and there can be no omissions or deficiencies within the written submissions that are left open to interpretation or inference.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 29, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the *Act* determines that a document is deemed to have been served on 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.

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on February 01, 2014 for a tenancy beginning February 01, 2014 for the monthly rent of \$650.00 due on the 1st of the month plus utilities for any amount over the first \$50.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities which was issued on, August 27, 2014 with an effective vacancy date of September 12, 2014 due to \$650.00 in unpaid rent and \$110.95 in unpaid utilities; and
- Copies of final demand letters sent to the tenant concerning the unpaid utilities.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the month of August, 2014 and utilities owed on June 29, 2014 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities by registered mail that was mailed on August 27, 2014 and therefore is deemed served five days later.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with Notice to End Tenancy as declared by the landlord. The Notice is deemed to have been received by the tenant on September 01, 2014. I accept the evidence before me

that the tenant has failed to pay the rent and utilities owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*, effective **two days after service on the tenant**. This Order must be served on the tenant and may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation, pursuant to section 67 of the *Act*, in the amount of **\$760.95** for rent and utilities owed. 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 29, 2014

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Residential Tenancy Branch

