



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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 October 16, 2014, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. A Canada post tracking number was submitted as evidence.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later.

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 is 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 Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on August 26, 2014, indicating a monthly rent of \$1,000.00 due on the first day of the month;
- A copy of a rent increase, effective August 1, 2014, indicated the new rent was \$1,022.00 and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 3, 2014 with a stated effective vacancy date of October 16, 2014, for \$1,258.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door on October 3, 2014, which was witnessed. Section 90 of the Act deems the tenant was served on October 6, 2014.

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

The landlord writes in the details of their claim, that on October 4, 2014, they received from the tenant a partial payment of rent by cheque in the amount of \$1,000.00, leave an outstanding balance of rent in the

amount of \$283.00. The landlord stated on October 14, 2014, the cheque they received on October 4, 2014 was returned NSF.

### 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.

I accept the evidence before me that the tenant has failed to pay the rent 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. Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid rent.

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and this Order 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 in the amount of **\$1,258.00** comprised of rent owed. I note the landlord has included a late fee in their calculation for rent claimed (\$1,283.00) as this is supported by the rent ledger. As this is a direct request proceeding late payment of rent fees are not permitted under this process.

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.

### Conclusion

The landlord is entitled to an order of possession.

The landlord is entitled to a monetary order for unpaid rent.

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: October 22, 2014

---

Residential Tenancy Branch

