



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS  
and [tenant name suppressed to protect privacy]

## **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 which declares that on September 24, 2014 the Landlord served the Tenant with the Notice of Direct Request by registered mail to the Tenant's rental suite, pursuant to Section 89(1) (c) of the Act.

The Landlord provided a copy of the Canada Post tracking receipt as evidence for this method of service. Section 90(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail or use this reason alone as grounds for a review. As a result, I find that the Tenant was deemed served with Notice of Direct Request Proceeding on September 29, 2014.

### Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Has the Landlord established a monetary claim for unpaid rent?

### Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the previous Landlord and the Tenant on March 1, 2011 for a tenancy commencing on the same day. The tenancy agreement establishes rent payable in the amount of \$1,270.00 in advance on the first day of each month;

- A Notice of Rent Increase form dated February 9, 2014, showing the rent was increased from \$1,270.00 to \$1,324.00 which was payable by the Tenant starting June 1, 2012;
- A document titled 'Tenant File Change' showing the Tenant's rent was reduced by the Landlord from \$1,324.00 to \$1,295.00 starting June, 2012;
- A document indicating a change in the Landlord's company's address on the tenancy agreement. This change in address appears on the Landlord's application and the Notice;
- A copy of a 2 page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on September 5, 2014 with an effective vacancy date of September 15, 2014 due to \$610.00 in unpaid rent due on September 1, 2014;
- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to the Tenant on September 5, 2014 by attaching it to the Tenant's door with a witness who signed to verify this method of service;
- A 'Tenant Inquiry' document showing the rent payment history of the Tenant. The document indicates that at the time the Notice was served to the Tenant the Tenant was paying \$1,295.00 in monthly rent amounts;
- The Landlord's Application for Dispute Resolution made on September 23, 2014 claiming unpaid rent of \$610.00 for September, 2014; and
- A Monetary Order Worksheet document showing the Tenant paid \$685.00 on September 1, 2014 leaving an outstanding balance of \$610.00 for September, 2014 rent.

### Analysis

Based on the written evidence provided by the Landlord, I am satisfied that the Landlord changed during the tenancy and provided sufficient notice to the Tenant of this change; the new Landlord's named also appears on documents served to the Tenant following the change.

I also accept that the rent amount payable under the tenancy agreement increased during the course of the tenancy through a Notice of Rent Increase from and was then reduced to \$1,295.00 as evidenced by the 'Tenant File Change' document.

I have reviewed the documentary evidence and I accept that the Tenant was served with the Notice on September 5, 2014, which complied with the Act, by attaching it to the Tenant's door with a witness who verified this method of service.

Section 90(c) of the Act states that documents served this way are deemed to have been received three days after being attached to the door. Therefore, I find that the Tenant was deemed to be served the Notice on September 8, 2014 and the effective date of vacancy on the Notice is automatically corrected to September 18, 2014 pursuant to Section 53 of the Act.

I accept the evidence before me that the Tenant failed to dispute the Notice or pay the outstanding rent on the Notice within the five days provided under Section 46(4) of the Act. Therefore, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the corrected vacancy date of the Notice. As a result, 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 Tenant**. 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 **\$610.00** 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: October 07, 2014

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Residential Tenancy Branch

