



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted in response to a Landlords' Application for Direct Request for an Order of Possession and a Monetary Order for unpaid rent, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "Act").

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 4, 2014 the Landlords served the Tenant with the Notice of Direct Request by registered mail, pursuant to Section 89(1) (c) of the Act. The Landlords 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 these documents on December 9, 2014.

### Issue(s) to be Decided

- Are the Landlords entitled to an Order of Possession for unpaid rent?
- Have the Landlords established a monetary claim for unpaid rent?

### Background and Evidence

The Landlords submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the Landlords and Tenant on September 30, 2014 for a tenancy commencing on October 1, 2014. The monthly rent is \$2,600.00 payable by the Tenant on the first day of each month;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on November 21, 2014 with an effective vacancy date of December 1, 2014 for \$2,600.00 in unpaid rent due on November 1, 2014;

- A copy of the Proof of Service of the Notice which shows the Landlords served it to the Tenant on November 21, 2014, by registered mail. The Landlord provided the Canada Post tracking number as evidence for this method of service; and
- The Landlords' Application for Direct Request made on December 4, 2014 claiming \$2,600.00 in outstanding rent for November, 2014.

### Analysis

I have reviewed the documentary evidence and I accept that the Tenant was served by the Landlords with a Notice that complied with the Act, by registered mail on November 21, 2014 based on the Canada Post tracking number provided as evidence for this method of service. In accordance with Section 90(a) of the Act, I find that the Tenant is deemed to have received the Notice on November 26, 2014 and the effective date of vacancy on the Notice is automatically changed to December 6, 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 rent owed on the Notice within the five days after having deemed to have received the Notice, pursuant to 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 date of the Notice. As a result, the Landlords are entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of \$2,600.00.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlords 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 **\$2,600.00** in favor of the Landlords 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: December 10, 2014

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Residential Tenancy Branch

