



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding JDC Property Management Ltd.  
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 December 11, 2014, the landlord served the tenants with the Notice of Direct Request Proceeding by posting it to the door of the rental unit

Section 90 of the Act determines that a document served in this manner is deemed to have been received 3 days after service.

Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents with respect to the claim for an order of possession. However, while service of the application for dispute resolution and notice of hearing may be effected through posting on the door for an order of possession, s. 89(1) of the Act requires that for a monetary order, the tenants must be served personally or through registered mail. I find that the tenants were not properly served with the hearing documents with respect to the monetary claim and I therefore dismiss the monetary claim with leave to reapply.

### Issue to be Decided

Is the landlord entitled to an order of possession?

### 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 parties on June 12, 2014, indicating that the tenants are obligated to pay \$790.00 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 tenants on December 2, 2014 for \$790.00 in unpaid rent due in the month of December; and
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice on the tenants by posting it to the door of the rental unit.

Section 90 of the Act provides that because the Notice was served by posting, the tenants are deemed to have received the Notice 3 days later on December 5, 2014.

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

#### Analysis

I find that the tenants received the Notice on December 5, 2014. I accept the landlord's undisputed evidence and I find that the tenants did not pay the rental arrears and did not apply to dispute the Notice and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I grant the landlord an order of possession which must be served on the tenants. Should the tenants fail to comply with the order, it may be filed for enforcement in the Supreme Court.

#### Conclusion

I grant the landlord an order of possession. The claim for a monetary order 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: December 22, 2014

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Residential Tenancy Branch

