



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **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 which declares that on January 21, 2015 the Tenant was personally served with the Notice of Direct Request Proceeding in the presence of a witness. The witness signed the Proof of Service document to verify this method of service. Based on the written submissions of the Landlords, I find that the Tenant has been served with the Notice of Direct Request Proceeding in accordance with Section 89(1) (a) of the Act.

### 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 residential tenancy agreement signed by the Landlords and Tenant on May 6, 2014 for a tenancy commencing on April 1, 2014. The agreement establishes that monthly rent is payable for \$675.00 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 December 10, 2014 with an effective vacancy date of December 22, 2014 for \$3,087.50 in unpaid rent due on December 1, 2014;

- A copy of the Proof of Service of the Notice which shows the Landlords served the Notice to the Tenant on December 10, 2014 by attaching it to the Tenant's door with a witness who signed the document to verify this method of service;
- The Application for Direct Request made on January 16, 2015 claiming unpaid rent in the amount of \$3,087.50. However, the details section of the application showing the rent outstanding is confusing and unclear. The amounts do not total up correctly and does not specify any partial payments made by the Tenant; and
- A document indicating the rental payment history of the Tenant which shows rental payments, partial payments and lack of payments made by the Tenant.

### Analysis

I have reviewed the written evidence and I accept that the Tenant was served with the Notice, which complied with the Act, by attaching it to the door with a witness.

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 December 13, 2014 and the effective date of vacancy on the Notice is automatically corrected to December 23, 2014 pursuant to Section 53 of the Act.

While the Landlords failed to complete the rental amounts correctly on the application, such as documenting partial payments made by the Tenant, I accept the Landlords' additional written evidence which corroborates the lack of rent payments made by the Tenant. This document also verifies the amount of rent outstanding on the Notice.

Therefore, as 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, 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 Landlords are entitled to an Order of Possession and a Monetary Order.

### 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 **\$3,087.50** 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: January 22, 2015

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Residential Tenancy Branch

