



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BROWN BROS AGENCIES LIMITED  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

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

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding documents which declares that on January 21, 2015 the Landlord served the Tenant with the documents 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. As a result, I find that the Tenant was deemed served with Notice of Direct Request Proceeding on January 26, 2015.

### 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 Landlord and the Tenant on July 2, 2013 for a tenancy commencing on July 15, 2013. The tenancy agreement establishes rent is payable by the Tenant in the amount of \$1,300.00 on the first day of the rental period;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on January 8, 2015 with an effective vacancy date of January 18, 2015 for \$1,300.00 in unpaid rent due on January 1, 2015;

- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to the Tenant on January 8, 2015 by attaching it to the Tenant's door with a witness who signed to verify this method of service; and
- The Landlord's Application for Direct Request made on January 20, 2015 claiming partial unpaid rent for December 2014 in the amount of \$350.00, and nonpayment of rent for January 2015 in the amount of \$950.00, for a total of \$1,300.00.

### Analysis

I have reviewed the evidence and I accept that the Tenant was served with the Notice on January 8, 2015, which complied with the Act, by attaching it to the Tenant's 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 January 11, 2015 and the effective date of vacancy on the Notice is corrected to January 21, 2015 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.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlord effective **two 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 **\$1,300.00** 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: January 28, 2015

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Residential Tenancy Branch

