



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 479711 ALBERTA 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 Proceeding which declares that on September 16, 2015 the Landlords served each 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 receipts 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 Tenants were deemed served with these documents on September 21, 2015.

### 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 which I have considered:

- A copy of a tenancy agreement signed by the Landlords and Tenants on July 2, 2015 for a tenancy commencing on July 1, 2015. The monthly rent is \$950.00 payable by the Tenants on the last 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 September 8, 2015 with a vacancy date of September 19, 2015 for \$950.00 in unpaid rent due on August 31, 2015;
- A copy of the Proof of Service of the Notice which shows the Landlords personally served it to the Tenants on September 8, 2015 in the presence of a witness who signed to verify this method of service; and
- The Landlords' Application for Direct Request made on September 16, 2015 claiming \$950.00 in outstanding rent for August 2015.

### Analysis

I have reviewed the documentary evidence and I accept that the Tenants were personally served with the Notice, which complied with the Act, on September 8, 2015. I accept the evidence before me that the Tenants **failed** to dispute the Notice or pay the outstanding rent for August 2015 within the five days provided under Section 46(4) of the Act. Therefore, I find that the Tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the vacancy date of the Notice. As a result, the Landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$950.00 claimed.

### 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 Tenants**. 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 **\$950.00** in favor of the Landlords pursuant to Section 67 of the Act. This order must be served on the Tenants 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: September 23, 2015

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Residential Tenancy Branch

