



# Dispute Resolution Services

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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

The landlord applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, 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 for each tenant to declare that on December 16, 2013 the landlord sent each tenant a Notice of Direct Request Proceeding via registered mail at the rental unit. The landlord provided registered mail receipts, including tracking numbers, as proof of service. Section 90 of the Act deems a person to have received documents five days after mailing.

Based on the written submissions of the landlord, I find that the tenants are deemed to have been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on March 14, 2013, indicating a monthly rent of \$895.00 due on the 1<sup>st</sup> day of every month for a one-year fixed term;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 3, 2013 with a stated effective vacancy date of December 13, 2013, for \$935.00 in unpaid rent as of December 1, 2013;
- A copy of a Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenant's door on December 3, 2013 in the presence of a witness; and,
- A copy of a tenants' ledger from the start of the tenancy until December 13, 2013 which indicates a partial payment of \$447.50 was posted on December 5, 2013.

The 10 Day Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The landlord seeks a monetary order for the balance of outstanding rent for the month of December 2013 in the amount of \$487.50.

### Analysis

I have reviewed all documentary evidence and accept that the tenants were served with a 10 Day Notice to End Tenancy as declared by the landlord. Since the 10 Day Notice was posted, under section 90 of the Act, it is deemed to be received by the tenants three days later. Accordingly, the effectively date automatically changes to read December 16, 2013 under section 53 of the Act.

I accept the evidence before me that the tenants failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the Act. Accordingly, I find that the tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Therefore, I find that the tenancy ended December 16, 2013 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenants.

Upon review of all of the evidence before me, I find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$487.50 for the month of December 2013. Therefore, I provide the landlord with a Monetary Order for this amount to serve upon the tenants and enforce as necessary.

### Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenants. The landlord is provided a Monetary Order in the amount of \$487.50 to serve upon the tenants.

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 23, 2014

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Residential Tenancy Branch

