



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding N.K. PROJECTS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted by way of a Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (referred to as the “Act”) in response to a landlord’s application 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 which declares that the landlord served the tenant with the Notice of Direct Request by registered mail, pursuant to section 89(1) (c) of the Act. The landlord provided the Canada Post tracking number as evidence for this method of service. Section 90(c) of the Act states that a document served by mail is deemed to have been received 5 days after it is mailed. Based on this, I find the tenant was deemed served with the Notice of Direct Request Proceeding pursuant to the Act.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?  
Has the landlord established a monetary claim against the tenant for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the landlord and the tenant on June 12, 2013 for a tenancy commencing on July 1, 2013. Rent is payable by the tenant in the amount of \$700.00 on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on February 2, 2014 with an effective vacancy date of February 12, 2014 due to \$850.00 in unpaid rent due on February 1, 2014 (both pages of the 2 page approved form were provided as evidence);

- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities stating the landlord served the notice to the tenant on February 2, 2014. The tenant signed the proof of service document acknowledging receipt of the notice to end tenancy; and,
- The Landlord's Application for Dispute Resolution which was made on February 17, 2014 claiming \$850.00 of outstanding rent comprising of, \$150.00 for January, 2014 and \$700.00 for February, 2014.

### Analysis

I have reviewed the documentary evidence and accept that the tenant was personally served with a notice to end tenancy that complied with the Act based on the tenant's own signed acknowledgment.

I accept the evidence before me that the tenant has failed to dispute the notice or pay the rent owed within the 5 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 effective date of the notice. I therefore find that the landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the landlord 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 **\$850.00** in favor of the landlord pursuant to Section 67 of the Act. This order must be served on the tenant and may then 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: February 24, 2014

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Residential Tenancy Branch

