



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NPR Limited Partnership  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes

OPR, MNR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the landlord for an Order of possession and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 21, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding via posting to the tenant's door at 1:35 p.m.

Section 90 of the Act determines that a document is deemed to have been served on the 3<sup>rd</sup> day after posting.

Service by posting to the door does not meet the requirements for service when requesting compensation. When making a monetary claim section 89 of the Act requires the Notice of proceeding be served via registered mail or personal delivery. The proof of service document submitted by the landlord indicates that posting is not an approved method of service if requesting a monetary Order.

Therefore, I find that service is sufficient for an application requesting an Order of possession and that the monetary claim is dismissed with leave to reapply.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant;

- A copy of a residential tenancy agreement which was signed by the parties on June 28, 2013, indicating a monthly rent of \$675.00 due on or before the first day of the month; and
- A copy of a 10 day Notice to end tenancy for unpaid rent or utilities which was issued on February 4, 2014 with a stated effective vacancy date of February 17, 2014, for \$700.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was served the 10 day Notice to end tenancy for unpaid rent or utilities by posting to the tenant's door on February 4, 2014 at 4:30 p.m. a proof of service document submitted by the landlord was signed by the landlord's agent, G.W. and another employee, T.P.; confirming service occurred as declared.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$700.00 within 5 days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant files an Application for Dispute Resolution within 5 days.

The application indicates that the tenant owed \$100.00 from February 2014 and \$600.00 for March 2014.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord.

Section 90 of the Act stipulates that a document that is posted on a door is deemed to be received on the 3<sup>rd</sup> day after it is posted. Therefore, I find that the tenant received the Notice to end tenancy on February 7, 2014.

Section 46(1) of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on February 7, 2014, I find that the earliest effective date of the Notice is February 17, 2014.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental unit on February 17, 2014, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has 5 days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice.

In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant is conclusively presumed to have accepted that the tenancy has ended on the effective date of the Notice; February 17, 2014.

Therefore, I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of possession effective **two days after service** on the tenant. The Order may be filed in the Supreme Court and enforced as an Order of that Court.

### Conclusion

The landlord is entitled to an Order of possession.

The monetary claim is dismissed with leave to reapply.

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: March 26, 2014

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Residential Tenancy Branch

