



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## 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* (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 each Tenant with the Notice of Direct Request by registered mail to the Tenant’s address on July 16, 2014.

The Landlord provided the Canada Post tracking receipts as evidence for this method of service. Section 90(a) of the Act states that a document served by mail is deemed to have been received five days after it is mailed. A party cannot avoid service by failing to or neglecting to pick up mail. Based on this, I find the Tenants were deemed served with the Notice of Direct Request Proceeding on July 21, 2014.

### 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 Tenants 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 Tenants on June 1, 2013 for a tenancy commencing on the same day and showing a monthly rent of \$1,425.00 payable by the Tenants on the first 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 July 9, 2014 with an effective vacancy date of July 20, 2014 due to \$1,425.00 in unpaid rent due on July 1, 2014;

- A copy of the Proof of Service of the Notice showing the Landlord personally served it to the Tenants on July 9, 2014 with a witness who signed the document to verify this method of service; and
- The Landlord's Application for Dispute Resolution made on July 15, 2014 claiming outstanding rent of \$1,425.00 for July, 2014.

### Analysis

I have reviewed the documentary evidence and accept that the Tenants were personally served with the Notice, which complied with the Act, in the presence of a witness on July 9, 2014 as declared on the Proof of Service document.

I accept the evidence before me that the Tenants have failed to dispute the Notice or pay the rent owed for July, 2014 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 date of the Notice. As a result, 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 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 **\$1,425.00** in favor of the Landlord 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 Act.

Dated: July 22, 2014

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Residential Tenancy Branch

