



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded 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 for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 14, 2014, the landlords served the tenants with the Notice of Direct Request Proceeding via registered mail.

The Canada post tracking information confirms that Canada post attempted delivery of the packages on November 17, 2014 and that the tenants refused to accept the registered mail.

After consideration of the above information, I find that the tenants were provided the opportunity to retrieve the registered mail and refused service. I find this to be a deliberate effort on the part of the tenants to avoid service and pursuant to Section 71 of the *Act* I find the tenants were sufficiently served with Notice of Direct Request Proceeding.

### Issues to be Decided

Is the landlord is entitled to an order of possession?  
Is the landlord entitled to a monetary order for unpaid rent?

### 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 September 10, 2014, indicating a monthly rent of \$200.00 due on the first day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 1, 2014, with a stated effective vacancy date of 1 October 2013 – September 1, 2014, for \$900.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants have failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent. The proof of service indicated the document was posted on the door on September 1, 2014. However, the witness statement indicates the documents were served in person on October 8, 2014.

### Analysis

I have reviewed all documentary evidence.

The Direct Request process is a mechanism that allows the landlords to apply for an expedited decision, with that the landlords must follow and submit documentation exactly as the *Act* prescribes; there can be no omissions or deficiencies with items being left open to interpretation or inference as is the case before me.

Under these circumstances the landlords have provided conflicting evidence on the Proof of Service Notice to End Tenancy as the landlords and their witness have provided a different date of service and in a different manner. Therefore, I am unable to determine by which manner the document was served. Further, the landlords have indicated that the rent was \$260.00 per month; copies of the Notice of Rent increase have not been included for my consideration.

As a result of the above deficiencies, I find this case is not appropriate for the direct request process. Therefore, I dismiss the landlords' application with leave to reapply.

### Conclusion

The landlords' application 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 *Manufactured Home Park Tenancy Act*

Dated: November 26, 2014

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Residential Tenancy Branch

