



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FIRST CHOICE REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by Direct Request. The Landlords filed on January 14, 2016 seeking an Order of Possession for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 15, 2016 at 2:00 p.m. the Landlord(s) served each Tenant by posting the Notice of Direct Request Proceeding and their supporting documents to the Tenants' door, in the presence of a witness

Based on the written submissions of the Landlords, I find that each Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on January 18, 2016, three days after they were posted, in accordance with section 90 of the Act.

### Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlords:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a six month fixed term tenancy beginning October 15, 2015 and ending on April 15, 2016; for the monthly rent of \$1,350.00 due on the 1st of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 21, 2015, with an effective vacancy date listed as December 30, 2015, due to \$1,350.00 in unpaid rent that was due on December 1, 2015.

Documentary evidence filed by the Landlords indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on December 21, 2015 at 1:00 p.m., when it was posted to the Tenants' door, in the presence of a witness.

### Analysis

**Order of Possession** - I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenants on December 24, 2015, three days after it was posted. The effective date of the notice is December 30, 2015, pursuant to section 46 of the *Act*. I accept the evidence before me that the Tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, 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. Accordingly, I hereby grant the Landlords an Order of Possession, effective **two days after service on the Tenants**. In the event that the Tenants do not comply with this Order it may be filed with Supreme Court and enforced as an Order of that Court.

### Conclusion

The Landlords were successful with their application and were granted an Order of Possession effective **two days after service on 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 21, 2016

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Residential Tenancy Branch

