



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      OPR, MNR, FF

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 03, 2010 the landlord served the tenants with the Notice of Direct Request Proceeding in person.

Based on the written submissions of the landlord, I find that the tenants have been served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### 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 tenants;

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- A copy of a residential tenancy agreement which was signed by the parties on June 07, 2009 for a month to month tenancy beginning July 01, 2009 for the monthly rent of \$ 550.00 due on 1st of the month and a security deposit of \$275.00 was paid on July 01, 2009; and a pet damage deposit of \$200.00 was paid on July 01, 2009.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 02, 2009. The landlord has omitted the effective vacancy date of the notice. The notice states that it has been issued due to \$550.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants have failed to pay the rent owed for the month of December, 2009 and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted on the door of the tenant's rental unit on January 02 , 2010 at 12.30 p.m.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days.

## Analysis

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 landlord has omitted to include the effective date of the Notice on the 10 day Notice. Section 68 of the Act states that if a Notice does not comply with section 53 (form and content of notice to end tenancy) the director may amend the notice if satisfied that the tenants should have known the information omitted from the Notice. In these circumstances I find it is reasonable to assume the tenants would know the effective date of the Notice would be January 12, 2010 as the notice is dated January 02, 2010 and this is a 10 Day Notice. Therefore, as the notice is deemed to have been received by the tenants on January 05



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2010, the effective date of the notice is amended to January 15, 2010 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenant has 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 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.

## Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenants**. This order must be served on the tenants and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of **\$600.00** comprised of \$550.00 rent owed and the \$50.00 fee paid by the Landlord for this application. 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 *Residential Tenancy Act*.

Dated: February 15, 2010.

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Dispute Resolution Officer