



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes

OPR, FF

### 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 filing fee costs.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 19, 2010, the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit address. The landlord provided copies of Canada Post receipts and tracking numbers as evidence of service to each tenant. Section 90 of the Act determines that a document is deemed to have been served

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

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

May the landlord retain the deposit paid?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The landlord submitted the following evidentiary material:

- 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 the parties on December 18, 2009, indicating a monthly rent of \$600.00 due on or before the first day of the month and that deposits of \$600.00 were paid on December 20, 2009; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 10, 2010, with a stated effective vacancy date of March 20, 2010, for \$1,200.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door on March 10, 2010 at 8:30 p.m. with a witness present. The Act deems the tenants were served on March 13, 2010.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant's did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The Application indicates that the tenants had not paid rent owed for February and March, 2010.

### 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 notice is deemed to have been received by the tenants on March 13, 2010.

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.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to March 23, 2010.

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.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for filing fee costs.

The landlord has not applied to retain any deposit that may have been paid by the tenants. Any deposit held in trust by the landlord must be disbursed as required by section 38 of the Act.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenants and the Order 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 **\$50.00** comprised of the \$50.00 fee paid 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: March 31, 2010.

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Dispute Resolution Officer