

## **DECISION**

Dispute Codes      OPR MNR

### 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 the Landlord for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 11, 2010, the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. Canada Post receipts were provided in the Landlord's evidence. The Tenant is deemed to have been served with the hearing documents on June 16, 2010, five days after it was mailed in accordance with section 90 of the Act. Based on the written submissions of the Landlord, I find that the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession and a Monetary Order under section 55 of the *Residential Tenancy Act*?

### Background and Evidence

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

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant; and
- A copy of a residential tenancy agreement which was signed by the Tenant and the Landlord on January 06, 2010, for a month to month tenancy beginning

January 6, 2010, for the monthly rent of \$700.00 due on 1st of the month, and a security deposit of \$350.00 was paid by the Tenant; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, May 14, 2010, with an effective vacancy date of May 02, 2010 due to \$350.00 in unpaid rent and \$250.00 in unpaid utilities.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the Tenant's door on May 14, 2010, at 7:00 a.m., in the presence of a witness.

### Analysis

**Order of Possession** - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenant on May 17, 2010, three days after it was posted to the door, and the effective date of the notice is May 27, 2010, pursuant to section 90 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 and therefore I grant the Landlord an Order of Possession.

**Monetary Claim** –The Landlord has filed through the direct request process on June 11, 2010 and has applied for unpaid rent for May 2010 stating that a partial payment of \$350.00 was made by the Tenant. The Landlord did not provide a date when the partial payment was made and the Landlord did not provide information whether any payments were made towards June 2010 rent. Based on the aforementioned I find that the Landlord's monetary claim does not meet the criteria to be reviewed through a direct request process under section 55(4) of the *Act*. Therefore I find that a conference call hearing is required in order to determine the details of the Landlord's monetary claim.

Notices of Reconvened Hearing are enclosed with this decision for the Applicant Landlord and are required to be served to the Respondent Tenant by the Landlord.

### Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This order must be served on the Respondent Tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I HEREBY FIND that a conference call hearing is required in order to determine the merits of the Landlord's application for a Monetary Order. Notices of Reconvened Hearing are enclosed with this decision for the Landlord.

A copy of the Notice of Reconvened Hearing, this Decision, the Application for Dispute Resolution, and any evidence that will be introduced at the hearing by the Landlord must be served upon Tenant, in accordance with section 89 of the *Act*, within **three (3) days** of receiving this decision.

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: June 16, 2010.

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Dispute Resolution Officer