

## **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 the hearing package 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 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 23, 2008, for a month to month tenancy beginning

February 1, 2008, for the monthly rent of \$600.00 due on 1st of the month, and a security deposit of \$300.00 was paid by the Tenant on January 23, 2008; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, June 2, 2010, with an effective vacancy date of June 12, 2010 due to \$625.00 in unpaid rent; and
- A notation made by the Landlord to indicate the Tenant's rent was increased to \$625.00 after the Tenant acquired three cats.

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 June 2, 2010, at 8:15 p.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 June 5, 2010, three days after it was posted to the door, and the effective date of the notice is June 15, 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 and has applied for unpaid rent for an amount of \$625.00 which is different than the monthly rent listed on the tenancy agreement as \$600.00 per month. While the Landlord provided a statement on why the rent was increased to \$625.00 there is not enough evidence before to determine the merits of the Landlord's monetary claim. 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