

## **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 the Landlord for an Order of Possession for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 18, 2010 the Landlord served each Tenant with the Notice of Direct Request Proceeding via registered mail. Canada Post receipts were submitted in the Landlord's evidence. The Tenants are deemed to have been served with the hearing documents on August 23, 2010, five days after they were mailed in accordance with section 90 of the Act. Based on the written submissions of the Landlord, I find that each 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 pursuant to 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 each Tenant;

- A copy of a residential tenancy agreement which was signed by all parties on September 9, 2009 for a month to month tenancy beginning September 1, 2009, for the monthly rent of \$1,000.00 due on last day of the month and a deposit of \$500.00 was paid on September 8, 2009; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 3, 2010 with an effective vacancy date of August 13, 2010 due to \$1,000.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to their door on August 3, 2010, at 3:10 p.m.

### 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 Tenant on August 6, 2010, three days after it was posted to the door, and the effective date of the notice is August 16, 2010, pursuant to section 90 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 and I hereby grant the Landlord an Order of Possession.

Conclusion

I HEREBY 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 Respondent Tenants and may be filed in the Supreme Court 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: August 27, 2010.

---

Dispute Resolution Officer