



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes – OPR, MNR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act (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. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 13, 2010 at 7:p.m. the landlord served the tenant with the Notice of Direct Request Proceeding personally.

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

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *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 tenant;
- A copy of a residential tenancy agreement which was signed by the tenant and a party other than the landlord identified on the Application for Dispute Resolution on June 1, 2007 for a 12 month fixed term tenancy beginning on June 1, 2007 that converted to a month to month tenancy on June 1, 2008 for the monthly rent of 540.00 due on the 1<sup>st</sup> of the month and a security deposit of \$270.00 was paid;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 24, 2010 with an effective vacancy date of October 4, 2010 due to \$705.69 in unpaid rent; and
- A copy of a tenant account ledger showing a previous balance of unpaid rent in the amount of \$705.69 dated December 31, 2009. The ledger also indicates the landlord has been charging rent in the amount of \$580.69 from January 2010 to August 2010 and \$600.00 for September 2010.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the month of January 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the rental unit door on September 24, 2010 at 10:10 a.m.

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

### Analysis

The landlord who has submitted the Application for Dispute Resolution is a different landlord than the landlord named in the tenancy agreement. The landlord who submitted the application did not provide any evidence to show that there was a transfer in landlords. As such, I find I cannot determine if there is a tenancy between the parties named in the application.

In addition, the tenancy agreement submitted indicates rent is \$540.00 and yet it appears the landlord has been charging the tenant two higher amounts and the landlord has failed to provide any evidence of notification of any rent increases that are compliant with the *Act*. I am therefore unable to determine how much the current rent is.

Finally, the landlord indicates in the application that the rent that is in arrears is the rent for the month of January 2010, however, the ledger submitted indicates that this amount was from a previous balance as of December 31, 2009. I am therefore not able to determine when this rent was due and why it is in the amount of \$705.69.

### Conclusion

As a result of these findings, I dismiss the landlord's application with leave to reapply.

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: October 21, 2010.

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Dispute Resolution Officer