



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNR

### Introduction

This hearing was scheduled for 1:30 p.m. on this date to hear the tenant's application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord appeared at the hearing; however, the tenant did not appear at the hearing by 1:40 p.m. and I dismissed the tenant's application without leave to reapply.

The landlord verbally requested an Order of Possession and I proceeded to hear from the landlord with respect to the landlord's entitlement to an Order of Possession.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession under section 55 of the Act?

### Background and Evidence

The landlord and resident manager testified as follows. The tenancy commenced October 2009 and the tenant is required to pay rent of \$825.00 by the 1<sup>st</sup> day of every month. The landlord has received rent payments of \$412.50 from the Ministry on behalf of the tenant but the tenant has failed to pay the full amount of his rent. On September 2, 2010 the resident manager personally served a 10 Day Notice to End Tenancy for Unpaid Rent upon the tenant. The Notice indicates \$825.00 was outstanding as of September 1, 2010. Other than the payments from the Ministry the tenant has not made any other payments to the landlord to satisfy the full amount of rent owed to the landlord.

Both the landlord and tenant had provided a copy of Income Assistance statements from the Ministry with respect to the benefit month of September 2010. The tenant's evidence shows the tenant receives assistance of \$675.00 per month and that \$432.50 was deducted from his cheque. The landlord's statement shows that \$412.50 was paid to the landlord for September rent for the tenant.

I requested the landlord provide a copy of the 10 Day Notice immediately after the teleconference call ended. The landlord immediately provided a copy of the 10 Day Notice which indicates it was issued September 2, 2010 for unpaid rent of \$825.00 on September 1, 2010. The Notice has an effective date of September 13, 2010. Also provided is a copy of a Proof of Service showing the resident manager personally served the Notice upon the tenant on September 2, 2010 in the presence of a witness.

### Analysis

Section 55 of the Act provides that where a tenant's application to dispute a Notice to End Tenancy is dismissed the landlord may obtain an Order of Possession by way of a verbal request during the hearing. In this case, the tenant's application to cancel the Notice to End Tenancy has been dismissed and the landlord verbally requested an Order of Possession.

Based upon the evidence provided by both parties I am satisfied the tenant had not paid the full amount of rent owed for the month of September 2010 and the landlord issued a valid Notice to End Tenancy on September 2, 2010. Therefore, I grant the landlord's request for an Order of Possession. The landlord is provided an Order of Possession effective two (2) days after service upon the tenant.

I make no findings as to the monetary compensation owed to the landlord. The landlord is at liberty to make his own Application for Dispute Resolution for damages or loss.

Conclusion

The tenant's application has been dismissed and the landlord has been provided an Order of Possession effective two (2) days after service upon the tenant.

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 15, 2010.

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Dispute Resolution Officer