



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

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

The Landlord submitted a copy of a Canada Post tracking ticket number however did not provide a completed Proof of Service of the Notice of Direct Request Proceeding form.

### 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 a residential tenancy agreement which was signed by all parties on August 10, 2010, for a month to month tenancy beginning May 5, 2010, for the monthly rent of \$820.00 due on 1st of the month. A security deposit of \$410.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, October 3, 2010, with an effective vacancy date of October 13, 2010 due to \$820.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant was served with the 10 Day Notice on October 3, 2010 at 9:30 p.m. when it was posted to the Tenant's door in the presence of a witness.

### Analysis

The Landlord did not provide a Proof of Service form to declare when the Tenant was served the Notice of Direct Request package. The Landlord did provide a copy of a Canada Post tracking number however there is insufficient evidence to support when the registered mail package was sent or what was included in that package.

Based on the above, I find that there is insufficient evidence to prove that service of the Notices of Dispute Resolution were effected in accordance with section 59(3) of the *Residential Tenancy Act* (the Act) which stipulates that notices of dispute resolution must be served to the respondent(s) within 3 days of filing the application. Therefore, I find this application does not meet the requirements of the direct request process and I dismiss the Landlord's claim, with leave to reapply.

### Conclusion

**I HEREBY DISMISS** the Landlord's claim, 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: November 01, 2010.

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Dispute Resolution Officer