



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## 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 and a Monetary Order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 11, 2011 the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail. 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, and 67 of the *Residential Tenancy Act (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;
- A copy of a residential tenancy agreement which was signed by the parties on August 31, 2007, for a month to month tenancy effective September 1, 2007, for the monthly rent of \$610.00 due on the 1<sup>st</sup> day of every month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, March 2, 2011, 2010 with an effective vacancy date of March 13, 2011 due to \$1,194.00 in unpaid rent which is listed as being due on March 1, 2011.

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 on the Tenant's door on March 2, 2011 in the presence of a witness.

### Analysis

The Landlord has provided a copy of the 10 Day Notice to End Tenancy which was issued on March 2, 2011 and states "you have failed to pay rent in the amount of \$1,194.00 that was due on March 1, 2011, with \$514.00 being due from the February 2011 rent and \$680.00 March 1, 2011 rent" and a copy of Notice of Rent Increase, dated June 1, 2010, listing current rent at \$655.00, to increase by \$25.00 per month for a new rent of \$680.00 per month. The Landlord did not supply evidence of Notices of previous rent increases from the original \$610.00.

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The Landlord is seeking to end the tenancy due to this breach; however, the Landlord has the burden of proving that the Tenant was served with the 10 day Notice to End Tenancy which meets the form, content, and service under sections 52 and 89 of the *Residential Tenancy Act*.

I find that the 10 Day Notice issued by the Landlord does not meet the requirements of the *Act* as the rent increase effective for November 1, 2010, by the Landlord exceeded the allowable rent increase for the year 2010, which was 3.2%. Therefore the Notice is not enforceable as the rent listed as being due is invalid.

Based on the above I find that this application does not meet the requirements for the Direct Request process and I hereby dismiss the Landlord's application without leave to reapply.

### Conclusion

**I HEREBY ORDER** that the 10 Day Notice to End Tenancy issued for Unpaid Rent and dated March 2, 2011, is without force or effect.

**I HEREBY DISMISS** the Landlord's application, without 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: March 30, 2011.

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Residential Tenancy Branch