



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes:** OPR

### **Introduction**

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent dated January 27, 2011 and effective February 23, 2009 which was served to the tenant by registered mail sent on January 27, 2011.

Despite being served by registered mail confirmed by tracking numbers as having been sent on March 22, 2011, neither tenant appeared.

### **Issue(s) to be Decided**

The landlord was seeking an Order of Possession and the issue to be determined is whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

### **Background and Evidence**

The landlord submitted into evidence a copy of proof of service of the Notice of Hearing, a copy of the 10-Day Notice to End Tenancy for Unpaid Rent dated January 27, 2009, proof of service of the Ten-Day Notice and a copy of the tenancy agreement.

The landlord testified that the tenant failed to pay \$1,200.00 rent owed for January 2011 properly due on January 1, 2011 and a Ten Day Notice to End Tenancy for Unpaid Rent was issued. The landlord testified that the tenant did not pay the arrears within 5 days and in fact has not paid rent since, accruing arrears of \$4,800.00. The landlord testified that the tenant did not dispute the Notice and did not vacate the unit. The landlord is seeking an order of possession.

### **Analysis**

Section 26 (1) of the Act states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement. In this instance, the tenant did not pay the rent when it was

due. Section 46 of the Act states that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. However, the Act provides that, within 5 days after receiving a notice under this section, the tenant may either pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution. If a tenant who has received a Ten-Day Notice to End Tenancy for Unpaid Rent does not pay the rent or make an application for dispute resolution then the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit to which the notice relates by that date.

I find that that the tenant was served with a Ten-Day Notice to End Tenancy for Unpaid Rent and did not pay the rent within 5 days nor did the tenant dispute the Notice.

Based on the above facts I find that the landlord is entitled to an Order of Possession under the Act.

### **Conclusion**

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent 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: April 2011.

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Residential Tenancy Branch