



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OP

### 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 for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 16, 2011 the Landlord served each Tenant with the Notice of Direct Request Proceeding by posting them to the Tenant's door. Based on the written submissions of the Landlord, I find that each Tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents as of August 19, 2011, three days after they were posted to the door, in accordance with section 90 of the Act.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession pursuant to 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 the Proof of Service of the Notice of Direct Proceeding for each Tenant;
- A copy of a residential tenancy agreement which was signed by the Landlord and each Tenant on March 11, 2011, for a fixed term tenancy agreement beginning on April 1, 2011 and ending March 31, 2012 for the monthly rent of \$800.00 due on 1st of the month and a security deposit of \$387.50 plus a pet deposit of \$387.50 were paid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 2, 2011 with an effective vacancy date of August 12, 2011 due to \$800.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to their door on August 2, 2011 at 2:30 p.m. in the presence of a witness.

### Analysis

**Order of Possession** - I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end tenancy as declared by the Landlord. The notice is deemed received by the Tenants on August 5, 2011, three days after it was posted to their door, and the effective date of the notice is August 15, 2011, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the Tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice and I hereby grant the Landlord an Order of Possession.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

### Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenants**. This Order is legally binding and must be served on the Respondent Tenants.

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: August 23, 2011.

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Residential Tenancy Branch