



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

OPR, MNR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (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 September 23, 2011, the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit address. The landlord provided Canada Post receipts and tracking numbers as evidence of service. Section 90 of the Act determines that a document is deemed to have been served on the 5<sup>th</sup> day after mailing.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- 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 parties on November 19, 2011, indicating a monthly rent of \$1,020.00 due on the 1<sup>st</sup> day of the month;

- A cheque issued by the tenants dated August 15, 2011, in the sum of \$250.00 and a note written by the landlord on August 22, 2011, indicating payment for use and occupancy only;
- A copy of an august, 2011, 10 Day Notice Ending tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 12, 2011, with a stated effective vacancy date of September 22, 2011, for \$1,520.00 in unpaid August and September, 2011, rent.

Documentary evidence filed by the landlord indicates that the tenant's have failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door on September 12, 2011, at 12:10 p.m. with a witness, N. A. present. The Act deems the tenants were served on September 15, 2011.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant's did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The application indicated the tenants have not paid \$500.00 August rent and \$1,020.00 September, 2011, rent owed.

### Analysis

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 to have been received by the tenants on September 15, 2011.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to September 25, 2011.

I accept the evidence before me that the tenants have failed to pay the rent owed in full with in the 5 days granted under section 46 (4) of the Act. There is no evidence before me that the tenants disputed the Notice.

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; September 25, 2011.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid August, 2011 rent; \$500.00 and September, 2011 rent; \$1020.00, totaling \$1,520.00 .

Conclusion

I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenants and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of \$1,520.00 for August and September, 2011, rent owed and I grant an Order in that amount. This Order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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: September 29, 2011.

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Residential Tenancy Branch