



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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 for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 31, 2011, the Landlord served each Tenant with the Notice of Direct Request Proceeding via registered mail. Canada Post receipts were submitted in the Landlord's evidence. Based on the written submissions of the Landlord, I find that each Tenant has been served with the Dispute Resolution Direct Request Proceeding documents in accordance with 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 female Tenant on April 4, 2011, for a fixed term tenancy beginning April 1, 2011,

and switching to a month to month tenancy after September 30, 2011, for the monthly rent of \$750.00 due on 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 12, 2011, with an effective vacancy date of August 22, 2011 due to \$1,125.00 in unpaid rent; and
- A notation on the application which indicates that as of August 30, 2011 the Tenants had not paid \$375.00 of the August 2011 rent and \$375.00 of the July 2011 rent leaving an outstanding balance due of \$750.00.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent in person on August 12, 2011 at 4:00 p.m.

### Analysis

I have reviewed all documentary evidence and note that the tenancy agreement was signed by only one Tenant; therefore I find the Landlord's application through the Direct Request process may only proceed against the female Tenant who signed the tenancy agreement.

As per the aforementioned I find the Landlord's application against the second named Tenant, who did not sign the tenancy agreement, is dismissed without leave to reapply.

**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 effective date of the notice is August 22, 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 and failed to make application to dispute the Notice 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.

**Monetary Order** – The evidence supports that the Tenants have an accumulated balance of \$750.00 for unpaid rent up to August 31, 2011, in violation of section 26 of the Act which provides that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I approve the Landlord's request for a Monetary Order of **\$750.00**.

Conclusion

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

A copy of the Landlord's decision will be accompanied by a Monetary Order for **\$750.00**. The Order is legally binding and must be served upon the Tenant.

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 08, 2011.

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Residential Tenancy Branch