



# Dispute Resolution Services

Page: 1

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 and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 14, 2011, the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. Canada Post receipts were submitted in the Landlord's evidence. The Tenant is deemed to have received the hearing package on September 19, 2011, five days after it was mailed, in accordance with section 90 of the Act. Based on the written submissions of the Landlord, I find that the Tenant was sufficiently served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order 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 the Tenant;
- A copy of a residential tenancy agreement which was signed by all parties on April 30, 2009 for a fixed term tenancy beginning June 1, 2009 and switches to a month to month tenancy after May 31, 2010, for the monthly rent of \$1,000.00 due on 1st of the month and a deposit of \$500.00 was paid; and
- Copies of rent increases which increased the rent from \$1,000.00 to \$1,032.00 effective June 1, 2010 and from \$1,032.00 to \$1,055.00 effective June 1, 2011; and

- A note on the application which indicates rent arrears of \$65.00 from August 1, 2011 and \$1,055.00 from September 1, 2011 for a total arrears of \$1,120.00; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, September 2, 2011, with an effective vacancy date of September 12, 2011 due to \$1,120.00 in unpaid rent.

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 to the Tenant's door on September 2, 2011 at 2:00 p.m. in the presence of a witness.

### Analysis

**Order of Possession** - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenant on September 5, 2011, three days after it was posted to the door, and the effective date of the notice is September 15, 2011, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenant has 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 Tenant is 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 Tenant failed to pay \$65.00 of August 1, 2011 rent and \$1,055.00 for September 1, 2011 rent, 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 in the amount of **\$1,120.00**.

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 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 **\$1,120.00**. This 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 19, 2011.

---

Residential Tenancy Branch