



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

Dispute Codes      OPR MNR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 48(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 7, 2011 at 12:28 p.m. the Landlord served each Tenant, via registered mail, with the Notice of Direct Request Proceeding. Copies of the Canada Post receipts were provided in the Landlord's evidence. Based on the written submission of the Landlord I find that each Tenant has been sufficiently served notice of the Direct Request Proceeding in accordance with Section 82 of the Act.

### Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession and a Monetary Order, pursuant to section 48 of the Act?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlords:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant;

- A copy of a tenancy agreement which was signed by all parties for a fixed term tenancy that began on March 1, 2011 and is set to expire after February 29, 2016, for the monthly rent of \$700.00 due monthly in advance and provides an option, “exercisable on or after January 01, 2012, to purchase the Lot...” [sic]; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 9, 2011 with an effective vacancy date of August 26, 2011 due to \$700.00 in unpaid rent for August 2011.

Documentary evidence filed by the Landlords indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on August 9, 2011 at 11:00 p.m. when it was left personally with the Tenant.

### Analysis

The Landlord has filed through the Direct Request process and is claiming for unpaid rent. The 10 Day Notice indicates that rent was due August 1, 2011 however the tenancy agreement does not clearly state which day rent is due. Rather the tenancy agreement stipulates that rent is due “monthly in advance” which leads me to question is August rent was due prior to August 1<sup>st</sup> rather than on August 1<sup>st</sup>. I also note that the tenancy agreement includes an option to transfer ownership of the manufactured home pad to the Tenants prior to the expiration of the fixed term tenancy.

Based on the aforementioned I cannot clearly determine the terms of the tenancy agreement and therefore I find that this application does not meet the criteria of a direct request proceeding. Accordingly, I find that a conference call hearing is required in order to determine the details of the tenancy. Notices of Reconvened Hearing are enclosed with this decision for the Applicant Landlord and are required to be served to the Respondent Tenants by the Landlord.

Conclusion

I HEREBY FIND that a conference call hearing is required in order to determine the merits of this Application for Dispute Resolution. Notices of Reconvened Hearing are enclosed with this decision for the Landlord.

A copy of the Notice of Reconvened Hearing, this Interim Decision, the Application for Dispute Resolution, and any evidence that will be introduced at the hearing by the Landlord must be served upon Tenants, in accordance with section 81 of the *Act*, within **three (3) days** of receiving this decision.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: September 23, 2011.

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Residential Tenancy Branch