



# 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 November 3, 2011, at 11 a.m. the landlord personally served the tenant with the Notice of Direct Request Proceeding at the rental unit address. Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery.

Based on the written submissions of the landlord, I find that the tenant has 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 the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on June 15, 2011, indicating a monthly rent of \$1,050.00 due on the first day of the month, with payment of a \$200.00 deposit plus \$725.00 rent deposit that will be credited; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on an unknown date with a stated effective vacancy date of September 25, 2011, for

\$1,050.00 in unpaid rent due September 15, 2011 and \$675.00 utilities due on September 15, 2011.

I am unable to determine the date the Notice was issued, why the Notice indicates rent was due on a date other than that included in the tenancy agreement and why the landlord waited over 1 month beyond the indicated effective vacancy date of the Notice before he applied requesting an order of possession. There was no evidence before me of the utilities that may be owed by the tenant.

The proof of service document submitted as evidence indicated the tenant was personally served the 10 Day Notice ending tenancy; however, I cannot determine the date service occurred; however, it may have been September 25, 2011; the dates are difficult to discern.

Section 52 of the Act provides:

***Form and content of a notice to end tenancy***

**52** *In order to be effective, a notice to end a tenancy must be in writing and must*

- (a) be signed and dated by the landlord or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy, and*
- (e) when given by a landlord, be in the approved form.*

In the absence of a Notice ending tenancy that is dated by the landlord, I find that the Notice before me does not meet the requirements of the Act. Therefore, I find that the Notice is of no force or effect and that the application requesting an Order of possession is dismissed.

The application included a claim for unpaid rent in the sum of \$1,050.00; however, the landlord has not indicated which month's rent has not been paid. The landlord is at liberty to reapply for compensation for any unpaid rent.

**Conclusion**

The application requesting an Order of possession is dismissed.

The landlord is at liberty to issue a valid 10 day Notice ending tenancy and reapply requesting an order of possession should the rent not be paid.

The landlord is at liberty to reapply requesting compensation for any unpaid rent and utilities.

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: November 07, 2011.

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Residential Tenancy Branch