



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded 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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 17, 2011, the landlord served the tenants individually with the Notice of Direct Request Proceeding via registered mail.

Section 90 of the Act determines that a document served in this manner is deemed to have been received 5 days after service.

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

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order 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 Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the tenant H.W. on June 19, 2009 and was not signed by the tenant D.G., indicating that the tenant is obligated to pay \$1,500.00 in rent in advance on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which the landlord served on the tenants for \$1,500.00 in unpaid rent due in the month of November; and

- A copy of the Proof of Service of the Notice to End Tenancy showing that on November 4 the landlord served the notice to end tenancy personally on the respondent D.G.

The Notice restates section 46(4) of the Act which provides that the tenants had five days to pay the rent in full or apply for Dispute Resolution. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service and the landlord alleged that the tenants did not pay the rental arrears.

### Analysis

Although both of the respondents are named as tenants, only the respondent H.W. signed the tenancy agreement. I find insufficient evidence to prove that the respondent D.G. is a tenant rather than an occupant and accordingly I find that the landlord can only act against H.W.

I find that the tenant received the notice to end tenancy on November 4. I accept the landlord's undisputed evidence and I find that the tenant did not pay the rental arrears and did not apply to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I accept the evidence before me that the tenant has failed to pay \$1,500.00 in rent for the month of November. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a monetary order for \$1,500.00.

### Conclusion

I grant the landlord an order of possession and a monetary order under section 67 for \$1,500.00. This order may be filed in the Small Claims Division of the Provincial Court 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: November 24, 2011

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Residential Tenancy Branch