



# 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 a Direct Request Proceeding, pursuant to Section 55 (4) of the *Residential Tenancy Act*, and dealt with an application made by the landlord for an Order of Possession and a monetary order for unpaid rent or utilities.

The landlord submitted two signed documents entitled Proof of Service of the Notice of Direct Request Proceeding which declare that on February 14, 2012 the landlord served each of the tenants with the Notice of Direct Request Proceeding by personally handing it to each of the named tenants. Based on the written submissions of the landlord, I find that each of the tenants have been served with the Notice of Direct Request Proceeding requesting an Order of Possession and a monetary order.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent or utilities?  
Is the landlord entitled to a monetary order for unpaid rent or utilities?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on January 1, 2012 for a tenancy beginning January 1, 2012, for the monthly rent of \$1,200.00 payable on the 1<sup>st</sup> day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on February 3, 2012 with an effective date of vacancy of February 13, 2012, due to \$1,200.00 in unpaid rent that was due on February 1, 2012. Both pages of the 2-page form have been provided;
- A copy of a Proof of Service for the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities that states that the tenant was served with the notice on February 3, 2012 by posting it to the door of the rental unit;
- The landlord's Application for Dispute Resolution dated February 14, 2012 which states that the tenant has not paid the full amount of rent for the month of February, 2012, leaving a balance outstanding of \$ 1,200.00.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with the notice to end tenancy as declared by the landlord, which is deemed to have been received by the tenants on February 6, 2012, being 3 days after posting the notice to the door of the rental unit. Section 53 of the *Residential Tenancy Act* provides that incorrect effective dates contained in a notice to end tenancy are automatically changed to the earliest date that complies with the *Act*, and I find that date to be February 16, 2012.

I accept the evidence before me that the tenants have failed to pay the rent owed within the five days granted under Section 46 (4) of the *Act*. 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. I therefore find that the landlord is entitled to an Order of Possession and a monetary order for unpaid rent.

The details section of the Landlord's Application for Dispute Resolution also requests an order that the landlord be permitted to keep the security deposit and pet damage deposit in satisfaction of the claim. There is no provision in the *Residential Tenancy Act* for such an order to be made by way of Direct Request Process, and therefore, that portion of the landlord's application cannot succeed.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective two days after service on the tenants.

I further grant a monetary order in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,200.00.

This order is final and binding on the parties and may be enforced.

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: February 16, 2012.

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Residential Tenancy Branch