



# 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 February 29, 2012, the landlord personally served on the tenant the Notice of Direct Request Proceeding.

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

### Issue to be Decided

Can this issue be dealt with by way of Direct Request Proceeding?

### Background and Evidence

The landlord submitted a copy of the tenancy agreement which showed that the tenant was obligated to pay \$885.00 per month in rent. He presented further evidence showing that on January 2, 2012, the tenant was served with a 10-day notice to end tenancy by posting the notice on the door of the rental unit. The notice to end tenancy states that \$1,820.00 was owing as of January 1, 2012. The landlord's application seeks to recover \$885.00 in unpaid rent for December 2011.

### Analysis

In order to make a determination, I must be satisfied that the notice to end tenancy accurately reflected the amount owing at the time it was served and that any amounts received thereafter have not been received in time to invalidate the notice or have not

reinstated the tenancy. In this case, because the amount claimed is significantly lower than the amount identified on the notice to end tenancy, it seems clear that monies were accepted after the notice to end tenancy was received. As almost 2 months have passed since the notice to end tenancy was served and in the absence of clear accounting of when payments were received and the amount of those payments, I am unable to determine whether the notice was voided or whether the tenancy was reinstated.

For these reasons I find that the matter should be adjourned to a participatory hearing in order to allow the parties to explain the discrepancy between the amount claimed and the amount identified in the notice to end tenancy.

A hearing will take place on March 21, 2012 at 10:30 a.m. and will be conducted by telephone conference call. Included with the landlord's copy of this decision are notices of hearing. The landlord must serve the tenant via registered mail or personal service with a copy of the notice of hearing within 3 days of receiving this decision. The landlord should be prepared to give evidence of service at the hearing.

The landlord has already served on the tenant a copy of his application and evidence, but if he wishes to rely on further evidence or if the tenant wishes to submit any documentary evidence, that evidence must be served both on the branch and the other party 5 days prior to the hearing.

Failure to attend the hearing at the scheduled time, with all relevant documents and/or witnesses, will result in a decision being made on the basis of any information before the dispute resolution officer and the testimony of the party in attendance at the hearing.

### Conclusion

The matter is adjourned to a participatory hearing.

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: March 06, 2012

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Residential Tenancy Branch