



# 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, and dealt with an application made 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 24, 2012 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Act provides that a document is deemed to have been served 5 days after mailing. Based on the written submissions of the landlord, I find that the tenant has 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?

Is the landlord entitled to a monetary order for unpaid rent?

### 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 June 1, 2009, for the monthly rent of \$1,300.00 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 12, 2012 due to \$1,300.00 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 12, 2012 by posting it to the door of the rental unit; and

- The landlord's Application for Dispute resolution dated February 22, 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 \$1,300.00.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord which is deemed to have been received by the tenant on February 15, 2012, being 3 days after posting the notice to the door of the rental unit. The effective date of vacancy on the notice to end tenancy is not 10 days after the tenant was served, however the *Act* specifies that incorrect effective dates contained in a notice to end a tenancy issued by the landlord are changed to the earliest date that complies with the *Act*, and I find that date to be February 25, 2012.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under Section 46 (4) of the *Act*. I find that the tenant is conclusively presumed under Section 46 (5) of the *Act* to have accepted that the tenancy ended on February 25, 2012.

I therefore find that the landlord is entitled to an Order of Possession and a monetary order for unpaid rent.

### Conclusion

I grant the landlord an Order of Possession effective two days after service on the tenant. The tenant must be served with the Order of Possession.

As for the monetary order, I find that the landlord has established a claim for \$1,300.00 in unpaid rent.

These orders are final and binding 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: March 07, 2012.

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Residential Tenancy Branch