



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

OPR, MNR, MNSD

### 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 for unpaid rent and to retain the deposit.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 4, 2012, at 5:26 p.m. the female tenant was personally served with the Notice of Direct Request Proceeding, at the landlord's office.

There was no evidence before me that the male respondent was also served with notice of the proceeding.

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

In the absence of evidence of service to the male tenant I find that the claim against the male tenant is dismissed.

### Preliminary Matter

I have not considered the deposit; security deposits may not be disbursed via the Direct Request proceeding process. The deposit may be disbursed as provided by the Act.

### 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 female tenant;
- A copy of a residential tenancy agreement which was signed by the parties on November 1, 2011, indicating a monthly rent of \$900.00 due on the first day of the month;
- A copy of a rent summary document; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 9, 2012, with a stated effective vacancy date of May 19, 2012, for \$1,750.00 in accumulated unpaid rent due May 1, 2012.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery to the female tenant on May 9, 2012, at 4 p.m., with a witness present. The Act deems the tenant was served on May 9, 2012.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The rent summary supplied as evidence indicated that the tenants last had a zero balance owed in April 2011. Some months they paid a portion of rent owed, or more than rent owed. Effective June 1, 2012, they owed \$2,650.00.

### Analysis

I have reviewed all documentary evidence and accept that the tenants been served with Notice to end tenancy as declared by the landlord.

The Notice is deemed to have been received by the tenants on May 9, 2012.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the Act. There was no evidence before me that the tenants applied to dispute the Notice.

Based on the foregoing, 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; May 19, 2012.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid rent in the sum of \$2,650.00, owed between May 2011 and June, 2012, inclusive.

Conclusion

I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenants and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of \$2,650.00 rent owed between May 2011 and June, 2012, inclusive, and I grant an Order in that amount. This Order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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: June 07, 2012.

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Dispute Resolution Officer  
Residential Tenancy Branch