



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession for unpaid rent 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 July 4, 2012, at 3:41 p.m. the Landlord served the Tenant with the Notice of Direct Request Proceeding with the Tenant at the rental unit address and by registered mail. Incomplete Canada Post receipts were provided in the Landlord's evidence.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a month to month tenancy beginning February 15, 2012, for the monthly rent of \$1,150.00 due on 1st of the month and a security deposit of \$550.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, June 24, 2012, with no effective vacancy date listed, due to \$2,300.00 in unpaid rent that was due on May 15, 2012.
- Copies of two decisions from previous dispute resolution hearings one from April 11, 2012 granting the Landlord an Order of Possession and a Monetary Order

and one dated May 10, 2012 whereby the Landlord withdrew his application and the Tenant was successful in having a 10 Day Notice cancelled; and

- A written chronological listing of events submitted by the Landlord which indicates he agreed to reinstate the tenancy after the April 11, 2012 and May 10, 2012 hearings.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on June 24, 2012 when it was posted to the Tenant's door in the presence of a witness.

### Analysis

The proof of service document submitted by the Landlord indicates the Landlord served the Tenant with the Notice of Direct Request in person with the tenant and he has listed the rental unit address. However the document also indicates the Notice of Direct Request was served via registered mail and the Canada Post receipts which were provided lists only the Tenant's name, city and postal code. In the presence of contradictory information, and in the absence of the complete address to which the registered mail was sent, I find there to be insufficient evidence to prove how the Tenant was served.

Furthermore, the tenancy agreement stipulates rent is payable on the first of each month while the 10 Day Notice indicates rent in the amount of \$2,300.00 was payable on the 15<sup>th</sup> of May , 2012. The parties testified in the April 11, 2012 hearing that the due date of rent had changed to the 15<sup>th</sup> of each month; however it is evident that the tenancy agreement was not amended.

Also, in the details of dispute section of the application form the Landlord indicates he is seeking \$2,300.00 in unpaid rent which consists of payments due May 15, 2012 and June 15, 2012 however the 10 Day Notice indicates the full \$2,300.00 was payable on May 15, 2012 when in fact these were not due until June 15, 2012. Therefore the Notice is invalid.

Upon consideration of the above mentioned inconsistencies I find this application does not meet the requirements of the Direct Request Process and the application is dismissed.

Conclusion

The Landlord's application is HEREBY DISMISSED.

The 10 Day Notice issued June 24, 2012, is HEREBY CANCELLED and is of no force or effect.

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: July 09, 2012.

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Residential Tenancy Branch