



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with a landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and/or utilities; and, authorization to retain the security deposit. The tenant did not appear at the hearing. The landlord testified that she posted the hearing documents on the tenant's door on July 13, 2012 and the tenant was still residing in the rental unit on that date.

Section 89(2) of the Act provides for permissible methods of service with respect to a request for an Order of Possession. Posting on the door of the tenant's residence is a permissible method of service and I am satisfied the tenant was sufficiently served with the Application for Dispute Resolution as it relates to an Order of Possession.

The landlord has also applied for a Monetary Order which requires that the landlord serve a respondent as set out under section 89(1). Section 89(1) requires that an Application for Dispute Resolution be served upon the tenant in person or by registered mail. Since the Application for Dispute Resolution was posted the landlord has not served the Application for Dispute Resolution in a manner that complies with the Act with respect to a Monetary Order.

In light of the above, I proceed to consider the landlord's request for an Order of Possession and the landlord's request for a Monetary Order is dismissed with leave to reapply.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

### Background and Evidence

I was provided the following undisputed evidence by the landlord: The tenancy commenced April 1, 2011 and the tenant paid a \$280.00 security deposit. The tenant was required to pay rent of \$560.00 on the 1<sup>st</sup> day of every month. The tenant failed to

pay rent for July 2012 when due and on July 3, 2012 the landlord and her husband posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door. The Notice indicated that \$560.00 was outstanding as of July 1, 2012 and had a stated effective date of July 13, 2012. The tenant did not pay the outstanding rent or dispute the Notice.

The landlord stated that it appears the tenant was in the process of moving out a few days prior to the hearing; however, the tenant has not returned the keys to the landlord or otherwise indicated she has finished vacating the unit. The landlord explained that she filed this application as the landlord had reason to believe the tenant would not vacate the rental unit by the effective date of the Notice given the tenant's behaviour towards the landlord.

I was provided a copy of the tenancy agreement and 10 Day Notice as documentary evidence for this proceeding.

### Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Since the Notice was posted on the door it is deemed to be received by the tenant three days later under section 90 of the Act. Accordingly, the effective date is automatically changed to read July 16, 2012 pursuant to section 53 of the Act.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on July 16, 2012 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

I award the filing fee to the landlord. The landlord is authorized to deduct \$50.00 from the tenant's security deposit in satisfaction of this award.

### Conclusion

The landlord has been provided a Order of Possession effective two (2) days after service upon the tenant. The landlord is authorized to deduct \$50.00 from the tenant's security deposit to recover the filing fee paid for this application. The landlord's monetary claims have been dismissed with leave to reapply.

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 31, 2012.

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Residential Tenancy Branch