



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing was conducted as a 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. The landlord has not requested a Monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that the landlord served the tenants with the Notice of Direct Request Proceeding by posting on the tenants door on August 10, 2012 and again by registered mail sent on August 12, 2012.

Based on the written submission of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

The issue to be decided is whether the landlord is entitled to an Order of Possession.

### 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 tenants;
- A copy of a residential tenancy agreement which was signed by the parties on December 17, 2011 setting a monthly rent of \$1,300 due on the first day of the month. A security deposit of \$650 was paid on December 17, 2011;

- A copy of a 10 Day Notice to End Tenancy for unpaid rent which was served by posting on the tenant's door on July 29, 2012.

Documentary evidence filed by the landlord indicates that the tenants had failed to pay the \$1,300 rent due on June 1, 2012.

The Notice to End Tenancy states that the tenants 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 landlord has not requested a Monetary Order for the rent shortfall.

### Analysis

I have reviewed all documentary evidence and accept that the tenants were served with Notice to End Tenancy as declared by the landlord.

I accept the evidence before me that the tenants failed to pay the rent owed in full within the five days granted under section 46(4) of the *Act* which was August 6, 2012 taking into account three days for deemed service of the document served by posting.

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 which was August 11, 2012.

Therefore, I find that the landlord is entitled to an Order of Possession based on the Notice to End Tenancy of July 3, 2012.

The landlord remains at liberty to make application for the unpaid rent and any damage or losses as may be ascertained at the conclusion of the tenancy.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant. The Order may be filed in the Supreme Court and enforced as an Order of that Court.

The landlord remains at liberty to make application for a Monetary Order.

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: August 17, 2012.

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Residential Tenancy Branch