



# 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 (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 7, 2012 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5<sup>th</sup> day after it is mailed.

Based on the written submissions of the landlord, I find that the tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on February 1, 2009 for a month to month tenancy beginning on February 1, 2009 for the monthly rent of \$750.00 due on the 1<sup>st</sup> of each month and a security deposit of \$375.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 5, 2012 with an effective vacancy date of July 15, 2012 due to \$750.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of July 2012 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on July 5, 2012 at 6:00 p.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on July 8, 2012 and the effective date of the notice is amended to July 18, 2012, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

However, as the landlord submitted their Application for Dispute Resolution on September 6, 2012 seeking both a monetary order and an order of possession but has provided no details as to whether or not the landlord has reinstated the tenancy by accepting rent for August and September 2012, I find this Application is not suitable to be adjudicated through the direct request process, as there is no ability to clarify these circumstances.

### Conclusion

As per the above, I dismiss the landlord's Application in its entirety 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: September 14, 2012.

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Residential Tenancy Branch