



# Dispute Resolution Services

Page: 1

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 14, 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 August 27, 1997 for a month to month tenancy beginning on September 1, 1997 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 September 4, 2012 with an effective vacancy date of September 14, 2012 due to \$1,041.60 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay rent owed on September 1, 2012 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on September 4, 2012 at 10:37 a.m. and that this

service was acknowledged by the tenant when she signed the proof of service document.

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 September 4, 2012 and the effective date of the notice was September 14, 2012.

However, the landlord indicates that the amount of rent due on September 1, 2012 was \$1,041.60 and yet rent, according to the tenancy agreement is \$750.00 per month. As the Direct Request process is not completed with a participatory hearing, I cannot determine how this amount was deemed to be unpaid. For example, is it a result of the non-payment of rent over a period of several months or have there been rent increases that have raised the rent to the amount note as unpaid?

As such, I find this Application is not suitable for adjudication through the Direct Request process.

### Conclusion

For the reasons noted above, I dismiss this Application with leave to reapply either as a participatory hearing or for the landlord to reapply as a Direct Request and provide sufficient documentation to explain the details of the amounts of rent.

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 20, 2012.

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Residential Tenancy Branch