



# 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* (the "Act"), and dealt with an Application for Dispute Resolution by the landlords for an Order of Possession and a monetary order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 7, 2012 the landlords served the tenants with the Notices of Direct Request Proceeding via registered mail. The landlord provided a Canada Post receipt, tracking number as evidence of service. Section 90 of the Act determines that a document is deemed to have been served 5 days after the Notices were mailed or on September 12, 2012.

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

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

### Background and Evidence

The landlords 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 November 9, 2011, indicating a monthly rent of \$650.00 due 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 3, 2012, with a stated effective vacancy date of May 13, 2012, for \$1,300.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenants have failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it on the Tenant's door on May 3, 2012 at 2:16 p.m. The Act deems the tenants were served three days after posting the notice on the door or on May 6, 2012.

The Notice 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.

As well the Tenancy has continued from May, 2012 to September, 2012 on the basis of "Use and Occupancy Only" not as a reinstated tenancy. The Landlord included rent payment receipts that indicate on the receipts the payments are for "Use and Occupancy Only". As a result the Landlord has applied for the full amount of unpaid rent up to September, 2012 in the amount of \$2,025.00. The Landlord included a copy of the Tenants' ledger card to support the amount of \$2,025.00 of unpaid rent that is claimed in the Landlord's application.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlords.

The notice is deemed to have been received by the tenant on May 6, 2012.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the Act.

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.

Therefore, I find that the landlords are entitled to an Order of possession and a monetary Order for unpaid rent.

Conclusion

I find, pursuant to section 55 of the Act, that the landlords are entitled to an Order of Possession effective **two days after service** on the tenants and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlords are entitled to monetary compensation pursuant section 67 in the amount of **\$2,025.00** rent owed and I grant an Order in that amount. This Order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

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*.

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Residential Tenancy Branch