



# 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 applicant for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The applicant submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 17, 2012 the applicant served the tenants with the Notice of Direct Request Proceeding personally and that the tenants acknowledged this service by signing the Proof of Service document.

Based on the written submissions of the applicant, I find that the tenants have 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 applicant 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 applicant submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the tenants and naming a third party not named on the Application for Dispute Resolution as the landlord for a 6 month fixed term tenancy beginning on February 1, 2008 for the monthly rent of \$550.00 due on the 1<sup>st</sup> of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued by the applicant on October 3, 2012 with an effective vacancy date of October 13, 2012 due to \$550.00 in unpaid rent.

Documentary evidence filed by the applicant indicates the tenants failed to pay the full rent owed for the month of October 2012 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on October 3, 2012 at 10:00 a.m. and that this service was witnessed by a third party.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants 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 find the applicant has failed to establish that he acts on behalf of the landlord named in the tenancy agreement or that ownership of the residential property has transferred to the applicant.

Because the tenancy agreement and other documentary evidence submitted by the applicant does not provide evidence of a tenancy between these two parties that could be confirmed through oral testimony, and because the Direct Request process does not allow an opportunity for any oral testimony to be heard, I find the Direct Request process is not a suitable forum for the adjudication of the landlord's Application.

### Conclusion

Based on the above, I dismiss the landlord's Application with leave to reapply through the participatory hearing process.

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: October 22, 2012.

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Residential Tenancy Branch