



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 22, 2012, the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail. Canada Post receipts were provided in the Landlord's evidence. 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.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by all parties on May 18, 2012 for a month to month tenancy for the monthly rent of \$750.00 due on last day of the month and a security deposit of \$375.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, November 15, 2012, with an effective vacancy date listed as November 25, 2012, due to \$750.00 in unpaid rent that was due on October 31, 2012.

Documentary evidence filed by the Landlord indicates that the Tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent on November 15, 2012 at 6:00 p.m., in the presence of a witness.

### Analysis

I have reviewed all documentary evidence and accept that the parties entered into a month to month tenancy that began on or after May 18, 2012, the date they entered into the agreement.

**Order of Possession** – The evidence supports that the Tenant has been served with a 10 Day Notice to end tenancy as declared by the Landlord. The notice was received by the Tenant on November 15, 2012, and the effective date of the notice is November 25, 2012, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenant has 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 Tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice and I hereby grant the Landlord an Order of Possession.

**Monetary Order** – The evidence supports that the Tenant has failed to pay the October 31, 2012 rent of \$750.00 in violation of section 26 of the *Act* which provides that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I approve the Landlord's request for a Monetary Order for **\$750.00**.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

#### Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

The Landlord's decision will be accompanied by a Monetary Order for **\$750.00**. This Order is legally binding and must be served upon the Tenant.

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: November 28, 2012.

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Residential Tenancy Branch