



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNR

### Introduction

This matter proceeded 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 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 December 19, 2012, the landlord served the tenant with the notice of direct request proceeding via personal service.

Based on the written submissions of the landlord, I find that the tenant has been duly served with the direct request proceeding documents.

### Issues to be Decided

- Is the landlord entitled to an order of possession for unpaid rent?
- Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- 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 the parties on December 1, 2007, indicating a monthly rent of \$700.00 due on the first day of the month and was increased over the course of the tenancy through rent increases submitted in evidence, to the current monthly rent amount of \$780.00; and
- A copy of a 10 day notice to end tenancy for unpaid rent which was issued on December 6, 2012, with a stated effective vacancy date of December 15, 2012, for \$780.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the rent owed and was served the 10 day notice to end tenancy for unpaid rent by placing the notice into the rental unit which was witnessed by a third party, and which I deem to be the equivalent of posting to the tenant's door on December 6, 2012. Section 90 of the *Act* deems the tenant was served three days later on December 9, 2012 which would correct the above-mentioned effective vacancy date to December 19, 2012.

The notice states that the tenant had five days to pay the rent in full or apply for dispute resolution or the tenancy would end 10 days from the service date. The tenant did not apply to dispute the notice to end tenancy within five days from the date of service.

### 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.

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 corrected effective vacancy date of the notice. Therefore, I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

### Conclusion

I find that the landlord is entitled to an order of possession effective **two days after service** on the tenant and this order may be filed in the Supreme Court and enforced as an order of that court.

I find that the landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$780.00** comprised of rent owed.

This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: December 28, 2012.

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Residential Tenancy Branch