



# 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 landlord for an Order of Possession 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 4, 2012 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. The landlord provided a Canada Post receipt and tracking number as evidence of service. Section 90 of the Act determines that the documents are deemed to have been received five days later.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation 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 Request, including the registered mail receipt;
- A copy of a residential tenancy agreement which was signed by the parties and indicates a tenancy commenced June 1, 2012 for a monthly rent of \$735.00 due on the 1<sup>st</sup> day of every month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 6, 2012 with an unspecified vacancy date, for \$300.00 in unpaid rent as of November 1, 2012;

- A copy of a Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenant's door on November 6, 2012 in the presence of a witness; and,
- A copy of the tenant's ledger indicating the tenant's rent was reduced to \$705.00 per month and that in October 2012 the tenant made a partial payment of \$405.00 leaving a balance outstanding of \$300.00. A payment of \$705.00 on November 1, 2012 was applied to the arrears leaving an outstanding balance of \$300.00 in November 2012.

The 10 Day Notice states that the tenant had five days to pay the outstanding rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

In the details of dispute the landlord states that the tenant failed to pay all of November's rent and did not fulfill payment arrangements.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with a 10 Day Notice to End Tenancy as declared by the landlord. Since the Notice was posted on the door it is deemed to be received three days later in accordance with section 90 of the Act. The effective date on the 10 Day Notice was left blank; however, it automatically changes to read November 19, 2012 in accordance with sections 46 and 53 of the Act.

I accept the evidence before me that the tenant has failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the Act. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy would end for unpaid rent. Therefore, I find that the tenancy has ended August 17, 2012 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$300.00 as claimed. The landlord is provided a Monetary Order for this amount to serve upon the tenant. The security deposit remains in trust to be administered in accordance with the Act.

### Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the amount of \$300.00 to serve 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: December 19, 2012.

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Residential Tenancy Branch