



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DIRECT REQUEST DECISION**

### **Dispute Codes**

OPR, MNR

### **Introduction**

This application proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act. The Application for Dispute Resolution by the landlord seeks an Order of Possession and a monetary order for rental arrears based on a 10-Day Notice to End Tenancy for Unpaid Rent.

The landlord submitted a signed Proof of Service form which declares that on January 24, 2013, the landlord served each tenant with the Notice of Direct Request by registered mail. Registered mail is deemed to be served in five days.

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

I have reviewed all documentary evidence.

### **Preliminary Matter**

The Fact Sheet containing directions and the requirements to apply for a resolution under this section states that the following mandatory documentation must accompany the Application: Copy of the 10 Day Notice to End Tenancy; Copy of the Tenancy Agreement signed by the parties and Proof of Service of the 10 Day Notice to End Tenancy

Submitted into evidence was a copy of the tenancy agreement showing rent set at \$750.00 per month and a security deposit in the amount of \$375.00. This tenancy agreement was signed by one of the co-tenants named in the style of cause on March 30, 2012. Two other individuals also signed the agreement. However, the second co-tenant named as respondent had not signed the tenancy agreement.

In this instance, I find that the landlord had complied by submitting a copy of the tenancy agreement, but it was only signed by one of the two respondent tenants. Therefore, I find that the request for a Monetary Order must only proceed against the tenant who signed the agreement.

**Issue(s) to be Decided**

Is the landlord is entitled to an Order of Possession and a monetary Order for rental arrears pursuant to 55 and 67 of the *Residential Tenancy Act (the Act)*?

**Proof of Service of 10 Day Notice to End Tenancy**

The landlord submitted a copy of the Notice to End Tenancy for Unpaid Rent and a "Proof of Service" form stating that the Notice was served to the tenant by posting it on the door on January 10, 2013 at 2:30 p.m. in front of a witness.

The purpose of serving documents under the *Act* is to notify the person of a failure to comply with the *Act* and of their rights in response. The landlord, seeking to end the tenancy has the burden of proving that the tenant was served with the Notice to End Tenancy and I find that the landlord has met this burden.

**Analysis**

A copy of the tenant's rent account ledger was submitted into evidence. In the Application for Direct Request, the landlord indicated that the tenant had accrued arrears of \$750.00, plus late fees. I find the landlord is entitled to monetary compensation for rental arrears in the amount of \$750.00.

Based on the evidence submitted by the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent. The tenant has not paid all of the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice. Based the above facts I find that the landlord is also entitled to an Order of Possession.

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby issue a monetary order in favour of the landlord in the amount of \$750.00 for rental arrears. This order must be served on the tenant and may be enforced through Small Claims court if necessary.

**Conclusion**

The landlord is successful in the application and is granted an Order of Possession and a monetary order against one of the two respondents shown on the style of cause.

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: January 29, 2013

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Residential Tenancy Branch

