



# 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 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 March 13, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail, a Canada post tracking number was provided as evidence.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later.

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

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 46, 55 and 67 of the Act.

### 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 September 10, 2012, indicating a monthly rent of \$775.00.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 2, 2013, with a stated effective vacancy date of March 12, 2013, for \$775.00 in unpaid rent, which was due on the March 1, 2013.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door on March 2, 2013, which was witnessed. Section 90 of the Act deems the tenant was served on March 5, 2013.

### 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.

However, the Direct Request process is a mechanism that allows the landlord to apply for an expedited decision, with that the landlord must follow and submit documentation exactly as the *Act* prescribes; there can be no omissions or deficiencies with items being left open to interpretation or inference as is the case before me.

In this case, the tenancy agreement indicates the tenancy commenced on September 10, 2012. The tenancy agreement states the monthly rent is \$775.00. The tenancy agreement does not specify a date when rent is required to be paid by the tenant, such as on the first or the tenth day of each month.

As a result of that omission, I find that I am unable to determine if the 10 Day Notice to End Tenancy for Unpaid Rent was issued on a date after the day rent was due as required by the Act.

Based on the above, **I dismiss** the landlord's application **with leave to reapply**. The landlord should not apply for a direct request proceeding unless all documents are completed in full and clear. Therefore, the landlord may wish to submit a new application through the normal dispute resolution process which includes a participatory hearing.

### Conclusion

The landlord's application is dismissed with leave to reapply.

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: March 18, 2013

