



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted by way of a Direct Request proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* in response to an application made 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 which declares that on April 23, 2013 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the *Act* provides that a document is deemed to have been served 5 days after mailing. Based on the written submissions of the landlord, I find that the tenant has been served with the Notice of Direct Request proceeding requesting an Order of Possession and a monetary order.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?  
Has the landlord established a monetary claim as against the tenant for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on August 24, 2012 for a tenancy commencing on September 1, 2012, for the monthly rent of \$750.00 payable on the 1<sup>st</sup> day of each month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on April 10, 2013 with an effective date of vacancy of April 10, 2013, due to \$1,500.00 in unpaid rent that was due on March 1, 2013 (both pages of the 2-page form have been provided);
- A copy of a Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities that states that the tenant was personally served with the notice on April 10, 2013;
- The Landlord's Application for Dispute Resolution dated April 23, 2013 which states that the tenant has not paid the full amount of rent for the months of March and April, 2013, leaving a balance outstanding of \$1,500.00.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord, which was personally served on April 10, 2013. The *Residential Tenancy Act* states that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued by a landlord must contain an effective date of vacancy that is no sooner than 10 days after the tenant is served or deemed to have been served with the notice. In this case, the landlord has issued a notice to end tenancy with the same effective date of vacancy as the date of issuance and the date of service. The *Act* also provides that incorrect effective dates contained in such a notice are automatically changed to the nearest date that complies with the *Act*. In this case, I find that the effective date of vacancy ought to read April 20, 2013, and the notice is deemed to be changed to that date.

I also accept the evidence before me that the tenant has failed to pay the rent owed within the 5 days provided under Section 46(4) of the *Act*. 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.

I therefore find that the landlord is entitled to an Order of Possession and a monetary order for unpaid rent.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective 2 days after service on the tenant.

I further grant a monetary order in the amount of \$1,500.00 in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act*.

This order is final and binding on the parties and may be enforced.

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: May 02, 2013

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Residential Tenancy Branch

