



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VILLA VENEZIA C/O GATEWAY PROPERTY MANAGEMENT CORP.  
and [tenant name suppressed to protect privacy]

## **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 May 27, 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 in March, 2013 for a tenancy commencing on April 1, 2013, for the monthly rent of \$850.00 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 May 3, 2013 with an effective date of vacancy of May 13, 2013, due to \$850.00 in unpaid rent that was due on May 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 served with the notice on May 3, 2013 by posting it to the door of the rental unit;
- The Landlord's Application for Dispute Resolution dated May 27, 2013 which claims \$850.00 in unpaid rent and states in the details portion that the tenant has not paid the full amount of rent for the months of April and May, 2013, leaving a balance outstanding of \$845.00 for April and \$850.00 for May, 2013;
- A copy of a tenant ledger showing that the rent for April, 2013 was paid and showing that the rent for May, 2013 was returned by the financial institution for insufficient funds.

### 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 is deemed to have been received by the tenant on May 6, 2013, being 3 days after posting the notice to the door of the rental unit.

I 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, which is deemed to be changed to the nearest date that complies with the *Act* to May 16, 2013. I therefore find that the landlord is entitled to an Order of Possession.

With respect to the monetary order for unpaid rent, I am satisfied that the landlord is owed rent for the month of May, 2013, and I make that order. With respect to the landlord's application indicating unpaid rent for the month of April, 2013, I am not satisfied that the landlord has established that claim, and I dismiss that portion with leave to reapply.

### 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.

The tenant must be served with the Order of Possession. If the tenant is served with the Order of Possession and fails to comply with the Order, the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I further grant a monetary order in the amount of \$850.00 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: June 13, 2013

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Residential Tenancy Branch