



# 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 for unpaid rent 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 July 11, 2013, the landlord served the tenant with the notice of direct request proceeding via registered mail.

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 as of July 16, 2013.

### Issues to be Decided

- Is the landlord entitled to an order of possession for unpaid rent?
- Is the landlord entitled to a monetary order 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 proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on March 2, 2012, indicating a monthly rent of \$850.00 due on the last day of the month; and

- A copy of a 10 day notice to end tenancy for unpaid rent which was issued on June 12, 2013, with a stated effective vacancy date of June 22, 2013, for \$1,970.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the rent owed and was served the 10 day notice to end tenancy for unpaid rent (the “10 day notice”) by posting to the tenant’s door which was witnessed by third party, JB, on June 12, 2013 at 4:45 p.m. at the rental unit. Section 90 of the *Act* deems the tenant was served three days later on June 15, 2013 which would automatically correct the above-mentioned effective vacancy date under the *Act* to June 25, 2013.

The notice states that the tenant had five days to pay the rent in full or apply for dispute resolution or the tenancy would end 10 days from the service date. There is no evidence before me that the tenant applied to dispute the notice to end tenancy within five days from the date of service.

I note that the 10 day notice indicates that \$1,970.00 was due as of June 1, 2013, however, I find that the landlord gave the tenant one extra day as the \$1,970.00 was due on the last day of the preceding month, which would have been May 31, 2013. The application details indicates that the tenant failed to pay \$270.00 for April rent, \$850.00 for May rent and \$850.00 for June rent. The signed tenancy agreement confirms that rent is due on the last day of the month, which means that \$270.00 in the unpaid portion of April 2013 rent was due on March 31, 2013, \$850.00 in unpaid rent for May 2012 was due on April 30, 2013, and \$850.00 in unpaid rent for June 2013 was due on May 31, 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.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46(4) of the *Act*.

Based on the foregoing, **I find** that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the notice, June 25, 2013. Therefore, **I find** that the landlord is entitled to an order of possession for unpaid rent and a monetary order for unpaid rent.

Conclusion

I find that the landlord is entitled to an order of possession effective **two days after service** on the tenant and this order may be filed in the Supreme Court and enforced as an order of that court.

I find that the landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$1,970.00** comprised of rent owed.

This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: July 17, 2013

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Residential Tenancy Branch

