



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 16, 2013 at 11:40 a.m. the landlord served each tenant with the Notice of Direct Request Proceeding personally.

Based on the written submissions of the landlord, I find that both tenants have been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

### 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, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on August 26, 2011 for a month to month tenancy beginning on September 1, 2011 for the monthly rent of \$1,100.00 and a security deposit of \$550.00 was paid. There is no indication in the written tenancy agreement as to what day in the month that rent is due; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 6, 2013 with an effective vacancy date of November 16, 2013 due to \$1,100.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the month of November 2013 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally on November 6, 2013 and that this service was acknowledged in writing by one of the tenants.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

### Analysis

Direct Request proceedings are conducted when a landlord issues a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and the tenant(s) has not filed an Application for Dispute Resolution seeking to cancel the Notice within 5 days of receiving the Notice. The proceeding is conducted *ex parte* and based solely on the paperwork provided by the applicant landlord.

Because the proceeding is conducted without the benefit of having a participatory hearing in which I might question either of the parties if something is unclear in the paperwork all documents submitted must be complete and clear.

In the case before me, I find that the tenancy agreement does not indicate what day in the month that rent is due. As such, I am unable to determine when the landlord would be able to issue a valid 10 Day Notice to End Tenancy. I therefore find this Application cannot be adjudicated through the direct request process.

### Conclusion

Based on the above, I dismiss this Application with leave for the landlord to reapply through the participatory hearing process.

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: November 19, 2013

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Residential Tenancy Branch

