



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes OPR, MNR

### Introduction

This non-participatory, ex parte matter was conducted by way of a 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 the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 28, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord's application, by leaving it with the tenant at the rental unit.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents as required by section 89 of the Act.

*Preliminary matter*-The landlord listed in the written tenancy agreement is not the applicant/landlord here. The applicant/landlord filed with her application a duly executed and notarized Power of Attorney whereby the landlord listed in the written tenancy agreement has granted full authority to the applicant/landlord to do on her behalf "anything that I can lawfully do by attorney."

Due to this Power of Attorney, I proceeded to consider the applicant's application under the direct request process.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and a monetary order due to unpaid rent?

### Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on April 1, 2011, indicating a monthly rent of \$850 due on the first day of the month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated on October 5, 2013, with a stated effective move out date of October 22, 2013, listing \$850 in unpaid rent; and
- Physical proof that the tenant was served the Notice by registered mail on October 15, 2013. Section 90 of the Act deems the tenant was served the Notice on October 20, 2013. Therefore the effective vacancy date, October 22, 2013, is automatically corrected to October 30, 2013, pursuant to section 53 of the Act.

The Notice stated that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

I note that the landlord made reference to 2 Notices being served on 2 separate dates and being received on October 8 and October 23, respectively; however I dealt with only the evidence submitted, as referenced above.

### Analysis

The direct request procedure is based upon written submissions only and is an expedited process. Accordingly, written submissions must be accurately and timely submitted in order to succeed.

As the effective vacancy date listed on the Notice was automatically corrected to October 30, 2013, I find the landlord's application for dispute resolution when it was filed October 28, 2013, was untimely as the effective vacancy date had not yet occurred.

I therefore I dismiss the landlord's application 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* and is being mailed to both the applicant and the respondent.

Dated: November 06, 2013

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Residential Tenancy Branch

