



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WOODGROVE MANOR  
and [tenant name suppressed to protect privacy]

## **DECISION AND REASONS**

### **Dispute Codes**

OPR, MNR

### **Introduction**

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of 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 January 15, 2014, the landlord served each tenant with the Notice of Direct Request Proceeding in person.

Based on the written submissions of the Landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

### **Issue(s) to be Decided**

Is the landlord entitled to an Order of Possession for unpaid rent and Monetary Order for unpaid rent pursuant to sections 55 and 67 of the *Residential Tenancy Act*?

### **Background and Evidence**

The landlord submitted the following evidentiary material:

- Proof of Service of the Notice of Direct Proceeding,
- Copy of a residential tenancy agreement signed by the parties, on July 3, 2013 with monthly rent of \$650.00,
- Copy of the first page of a 10 Day Notice to End Tenancy for Unpaid Rent issued on January 2, 2014, with effective date of January 12, 2014 due to \$1,000.00 in unpaid rent due on January 1, 2014. The second page of the Notice is not in evidence.

No tenant ledger was submitted. However the application filed by the landlord indicated that the amount of the claim for rental arrears was \$650.00 with no additional arrears detailed.

The Proof of Service form indicated that the Ten-Day Notice for Unpaid Rent was served to the tenant by posting it on the tenant's door on January 2, 2014. Only the first page of the 10-Day Notice to End Tenancy for Unpaid Rent was placed in evidence and the second page was not in evidence. The 10-Day Notice to End Tenancy for Unpaid Rent indicates that the tenant is in arrears for \$1,000.00.

The 10-Day Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end.

### **Analysis**

The purpose of serving documents under the *Act* is to notify the person being served of their failure to comply with the *Act* and of their rights under the *Act* in response. The landlord is seeking to end the tenancy due to this breach and the landlord has the burden of proving that the tenant was properly served with the complete 10 day Notice to End Tenancy.

The landlord supplied information purporting to be proof of service by posting the Notice on the tenant's door. However, because the evidence submitted by the landlord only includes the first page of the Ten Day Notice, I find that the landlord has not adequately proven that both pages of this Notice were served. Accordingly, I find that the landlord has not met the burden of proof to show that the tenant was properly served with the 10 day Notice to End Tenancy.

In addition, I note that the landlord has supplied inadequate details regarding the monetary claim. The Application indicates that the tenant is in arrears for \$650.00 for the month of January 2014.

In the "Details of the Dispute" section of the Application, the landlord states, "*RENT FOR JANUARY 2014 NOT PAID*"

However, I find that this amount conflicts with data contained on the Ten Day Notice, which shows that, as of January 2, 2014, rent of \$1,000.00 was owed.

I find that there were no details provided about whether partial payments of arrears were made in the evidence placed before me. I find that, if any payments were accepted by the landlord after the 10-Day Notice was issued, the landlord would need to establish that they clearly informed the tenant that these funds were being accepted strictly

for “*use and occupancy only*” and would not function to reinstate the tenancy. I find that there is no accurate way to resolve this issue on the evidence that was submitted.

Given the insufficient clarification with respect to the differences in the monetary amounts claimed and the questions raised with respect to whether or not the tenant was served with both pages of the Ten-Day Notice, I find that this matter cannot proceed through the Direct Request process.

Accordingly, I find that the application must be dismissed. I hereby dismiss the landlord’s application in its entirety with leave to reapply.

### **Conclusion**

The landlord is not successful in the Direct Request application, and it is dismissed 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*.

Dated: January 21, 2014

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Residential Tenancy Branch

