



# 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* (the "Act"), and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a Monetary Order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 15, 2014, at 1:30 p.m., the Landlord mailed the Notice of Direct Request Proceeding and supporting documents to the Tenant at the rental unit, by registered mail. The Landlord provided a copy of the registered mail receipt and tracking number in evidence.

Based on the written submissions of the Landlord, I am satisfied that the Tenant was duly served with the Notice of Direct Request Proceeding and supporting documents.

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

- Is the Landlord entitled to an Order of Possession and 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 the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent;
- Copies of three receipts for partial rent paid on August 6, 2014, September 19, 2014, and another date in August (although the date is unreadable and the year is not given);
- A copy of a residential tenancy agreement which was signed by the parties on August 1, 2014, indicating a monthly rent which is unreadable, due on the first day of the month;

- A Monetary Order Work Sheet claiming \$1,285.00 rent remained unpaid on October 14, 2014;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 3, 2014, with a stated effective vacancy date of October 12, 2014, for \$1,355.00 in unpaid rent.

The documentary evidence indicates that the Landlord served the 10 Day Notice to End Tenancy for Unpaid Rent by hand delivering the document to the Tenant on October 3, 2014, at 4:40 p.m. The Proof of Service document is signed by the Landlord and a witness.

The Tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

### **Analysis**

I have reviewed all documentary evidence and accept that the Tenant was served with the Notice to End Tenancy on October 3, 2014.

Section 53 of the Act provides that an incorrect end-of-tenancy date on a notice to end tenancy is automatically corrected to the earliest date that complies with 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 October 13, 2014.

Therefore, I find that the Landlord is entitled to an Order of Possession.

With respect to the Landlord's application for a Monetary Order, I find that the Landlord did not provide sufficient evidence to support her claim for the following reasons:

1. The tenancy agreement is not clear with respect to monthly rent owed.
2. The Monetary Order worksheet dated October 14, 2014, indicates that the Landlord is seeking a Monetary Order in the amount of \$1,285.00, which consists of unpaid rent for August in the amount of \$395.00; unpaid rent for September in the amount of \$195.00; and unpaid rent for October in the amount of \$695.00. However, the Landlord's Application filed October 14, 2014 and the 10 Day Notice issued October 3, 2014, both indicate that she is seeking a total of \$1,355.00 in unpaid rent.

Therefore, I find that the Landlord has not provided sufficient documentary evidence to support her monetary claim of \$1,355.00 and this portion of her claim is dismissed with leave to reapply.

**Conclusion**

Pursuant to the provisions of Section 55 of the Act, I hereby provide the Landlord with an Order of Possession effective **two days after service** of the Order upon the Tenant. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

The Landlord's application for a Monetary Order 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: October 27, 2014

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Residential Tenancy Branch

