



# 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 an *ex parte* 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 based on unpaid rent and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 14, 2015, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had a witness sign the Proof of Service and in accordance with section 89, I find that the tenant has been duly served with the Direct Request Proceeding documents on January 14, 2015, the day it was personally served to them.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on September 20, 2013, indicating a monthly rent of \$575.00 due on the 1<sup>st</sup> day of the month for a tenancy commencing on September 01, 2013;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy ; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) personally served to the tenant on January 2, 2015, with a stated effective vacancy date of January 13, 2015, for \$575.00 in unpaid rent;

Witnessed documentary evidence filed by the landlord indicates that the tenant failed to pay all outstanding rent was served by personally handing the 10 Day Notice to the tenant on January 02, 2015. In accordance with section 88 of the *Act*, the tenant was duly served with this 10 Day Notice on January 02, 2015, the day it was personally served.

The Notice states that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenants 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 has been served with notice to end tenancy as declared by the landlords. The landlords' written evidence stated that the Proof of Service of the Notice of Direct Request document was personally served to the tenant on January 14, 2015.

Section 52 of the *Act* provides the following requirements regarding the form and content of notices to end tenancy:

**52** *In order to be effective, a notice to end a tenancy must be in writing and must*

*(a) be signed and dated by the landlord or tenant giving the notice,*

*(b) give the address of the rental unit,*

*(c) state the effective date of the notice,...and*

*(e) when given by a landlord, be in the approved form...*

I have reviewed all documentary evidence and I find that the tenant address on the Application for Direct Request is different than the one that is on the 10 Day Notice and the tenancy agreement which has been submitted by the landlord.

I further find that the address from which the tenant must move out of is not indicated on the 10 Day Notice therefore making the 10 Day Notice incomplete. In a participatory

hearing it may be possible to amend an incorrect address but the *Act* does not allow an arbitrator to input an address when none is written in.

As there are multiple errors in the landlord's 10 Day Notice, which could not be corrected in a participatory hearing, I find that the landlord has not complied with the provisions of section 52 of the *Act*. I dismiss the landlord's application to end this tenancy and obtain an Order of Possession on the basis of the 10 Day Notice of January 02, 2014, without leave to reapply. The 10 Day Notice of January 02, 2014 is cancelled and of no force or effect. For the same reasons and as the amount stated as owing was not for the rental unit identified in the 10 Day Notice, I dismiss the landlord's application for a monetary Order with leave to reapply.

### **Conclusion**

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of January 02, 2015 is dismissed, without leave to reapply. The 10 Day Notice of January 02, 2015 is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

Given the inconsistency in the tenants' address of the rental unit on the tenancy agreement, a participatory hearing may prove the best venue to consider any subsequent application for an Order of Possession with respect to this tenancy.

I dismiss the landlord's application for a monetary Order 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 26, 2015

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Residential Tenancy Branch

