



# Dispute Resolution Services

Page: 1

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 April 11, 2015, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing.

### 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 tenants;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on November 05, 2014, indicating a monthly rent of \$650.00, due on the first day of the month for a tenancy commencing on December 01, 2014;

- A copy of a Statement from Landlord containing details regarding a short history of events with the tenant as well as the landlord's communication with the RCMP and a Social Worker regarding the tenant's situation;
- A copy of a letter from a Psychiatric Social Worker regarding the tenant;
- 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) dated March 03, 2015, and posted to the door of the rental unit on March 03, 2015, with a stated effective vacancy date of March 13, 2015, for \$310.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the door of the rental unit at 5:05 p.m. on March 03, 2015. The 10 Day Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

### Analysis

Section 88(g) of the *Act* provides the following requirement regarding the service of documents when attaching the 10 Day Notice to the door of the rental unit:

*(g) by attaching a copy to a door or other conspicuous place at the address at which **the person resides** or, if the person is a landlord, at the address at which the person carries on business as a landlord;*

In the Special Details section on the Proof of Service Notice to End Tenancy, the landlord states that... "I posted NTE on SC's door - # W St after she called to say she was arrested and they were holding her in the hospital."

I find that the landlord has served the 10 Day Notice to an address where the tenant was not residing at the time, and has not resided at since the time that the landlord issued the 10 Day Notice. There is no confirmation that the tenant has received the 10 Day Notice and, based on the statements from the landlord, it would not have been possible for the tenant to receive the notice at the rental unit as she was being held at a psychiatric facility for an indefinite period of time.

I find that I cannot confirm service of the 10 Day Notice to the tenant.

Therefore, 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 March 03, 2015, with leave to reapply.

The landlord may wish to re-serve the 10 Day Notice to the tenant in another way that is in compliance with section 88 of the *Act*.

For the same reasons identified in the 10 Day Notice, I dismiss the landlord's application for a monetary Order with leave to reapply.

I note that the landlord may wish to enquire with the Residential Tenancy Branch about Part 5 of the Residential Tenancy Regulations regarding abandonment.

### **Conclusion**

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of March 03, 2015 is dismissed, with leave to reapply.

This tenancy continues until it is ended in accordance with the *Act*.

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: April 20, 2015

---

Residential Tenancy Branch

