



# 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 Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), and deals with an Application for Dispute Resolution by the Landlord for:

1. An Order of Possession – Section 55; and
2. A Monetary Order for unpaid rent – Section 67.

Given the Landlord's signed proof of service, I find that the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail on October 16, 2015 in accordance with the Act.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

In the Application made October 14, 2015 the Landlord claims unpaid rent of \$2,550.00 and provides the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding;
- A copy of a residential tenancy agreement signed by the Parties indicating a tenancy start date of February 1, 2015 and a monthly rent of \$850.00 due on the first day of the month;

- A Monetary Order Worksheet showing the calculations for the amount claimed;
- A copy of a 10 day notice to end tenancy for unpaid rent ( the “Notice”) issued on October 1, 2015 with a stated effective vacancy date of October 15, 2015 for \$2,550.00 in unpaid rent due October 1, 2015; and
- A proof of service of the Notice showing that the Landlord served the Notice to the Tenant on October 16, 2014 by registered mail.

### Analysis

Section 46 of the Act provides that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy. As the Notice was given to the Tenant on the same day that rent was due and not on any day after it was due, I find that the Landlord did not end the tenancy in compliance with the Act. As the Landlord did not end the tenancy in compliance with the Act the Landlord may not make an application for an order of possession. As a result I dismiss the application.

### Conclusion

The application is dismissed. 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 20, 2015

---

Residential Tenancy Branch

