



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### 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.

The landlord submitted three signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on November 16, 2015, the landlord personally handed each tenant the Notice of Direct Request Proceeding.

### 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*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- Three copies of the Proofs of Service of the Notices of Direct Request Proceeding served to the tenants;
- A copy of a residential tenancy agreement which was signed by the landlord and Tenant G.H. on July 29, 2015, and Tenant R.H. and Tenant D.H. on July 31, 2015, indicating a monthly rent of \$850.00, due on the first day of the month for a tenancy commencing on August 01, 2015;
- 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 November 02, 2015, and posted to the tenants’ door on November 02, 2015, with a stated effective vacancy date of November 15, 2015, for \$850.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants’ door at 12:58 p.m. on November 02, 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

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on November 05, 2015, three days after its posting.

In this type of matter, the landlord must prove they served the tenants with the Notices of Direct Request proceeding, with all the required inclusions, as indicated on the Notice as per section 89 of the *Act*.

On the Proof of Service of the Notice of Direct Request Proceedings submitted by the landlord, I find that there is no signature of a person who witnessed the landlord personally serving the Notices of Direct Request Proceeding to the tenants.

Therefore, since I find that the landlord has not proven service of the Notices of Direct Request Proceeding to the tenants, the landlord's application for an Order of Possession based on unpaid rent is dismissed, with leave to reapply.

### Conclusion

I dismiss the landlord's application, 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: November 17, 2015

---

Residential Tenancy Branch

