



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

OPR, MNR

### Introduction

The landlord applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 14, 2016 the landlord served the Notice of Direct Request Proceeding and supporting documents upon the tenant by registered mail sent to the rental unit. The landlord provided a copy of the registered mail receipt, including tracking number, as proof of service. Section 90 of the Act deems a person to have received documents five days after mailing. .

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted copies of the following evidentiary material:

- A residential tenancy agreement which was signed by the parties on August 26, 2011, indicating a monthly rent of \$1,550.00 due on the 1<sup>st</sup> day of every month starting September 1, 2011 for a one-year fixed term that converted to a month to month tenancy thereafter;
- Three Notices of Rent Increase showing the rent was increased to \$1,608.50 on April 1, 2013; \$1,643.00 on August 1, 2014; and, \$1,684.00 on August 1, 2015;
- A 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 2, 2016 with a stated effective vacancy date of January 12, 2016, for \$1,768.00 in unpaid rent as of January 1, 2016;

- A photograph of the 10 Day Notice posted to the tenant's door and a signed Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenants' door on January 2, 2016 in the presence of a witness;
- A ledger showing the charges and payments for this tenancy between October 1, 2015 and January 1, 2016 including a rent shortfall of \$84.00 in December 2015 and no payment of the January 2016 rent; and,
- A Monetary Order worksheet indicating the outstanding amount of \$1,768.00 in rent remains outstanding as of the date of filing.

The 10 Day Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. 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 I find the tenant is deemed to have received the 10 Day Notice three days after it was posted on the door, pursuant to section 90 of the Act. As such, the effective date of the 10 Day Notice automatically changes to read January 15, 2016 under section 53 of the Act.

I accept the evidence before me that the tenant failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the Act. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy would end on the effective date of the Notice. Therefore, I find that the tenancy ended on January 16, 2016 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenant.

I further find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$1,768.00 for the months of December 2015 and January 2016. The landlord is provided a Monetary Order for this amount to serve upon the tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of the court. The security deposit remains in trust to be administered in accordance with the Act.

### Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the amount of \$1,768.00 to serve upon the tenant.

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 22, 2016

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Residential Tenancy Branch

