



# 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 July 20, 2016, the landlord sent Tenant M.P. 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. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that Tenant M.P. has been deemed served with the Direct Request Proceeding documents on July 25, 2016, the fifth day after their registered mailing.

The landlord did not submit a signed Proof of Service of the Notice of Direct Request Proceeding for Tenant D.M. although they did provide a second registered mail receipt for Tenant D.M.

### 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 Tenant M.P.;
- A copy of a residential tenancy agreement which was signed by a landlord, who is not the applicant, and Tenant M.P. on March 29, 2010, indicating a monthly rent of \$765.00, due on the first day of the month for a tenancy commencing on April 01, 2010;
- Copies of documents showing the transfer of management responsibilities from the former landlord, who is named on the residential tenancy agreement, to the current landlord who is applying for dispute resolution
- 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 July 04, 2016, and posted to the tenant's door on July 04, 2016, for \$995.21 in unpaid rent.

Documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 12:00 p.m. on July 04, 2016. The 10 Day 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.

### Analysis

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 there is no signature of the landlord on the 10 Day Notice. I find that this omission invalidates the 10 Day Notice as the landlord has not complied with the provisions of section 52 of the *Act*.

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 July 04, 2016, without leave to reapply.

The 10 Day Notice of July 04, 2016 is cancelled and of no force or effect.

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

I note that, even if the 10 Day Notice was signed, I would have dismissed this application to a participatory hearing to prove service of the 10 Day Notice as the Proof of Service Notice to End Tenancy was not signed by a witness. It appears that the landlord signed the proof of service twice.

### **Conclusion**

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of July 04, 2016 is dismissed, without leave to reapply.

The 10 Day Notice of July 04, 2016, is cancelled and of no force or effect.

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: September 02, 2016

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Residential Tenancy Branch