



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPRM – DR, FFL

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The applicant submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 22, 2018 the applicant served the respondent with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5<sup>th</sup> day after it is mailed.

Based on the written submissions of the applicant, I find that the respondent been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the applicant is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent and to recover the filing fee for this Application, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the respondent and another person naming a corporate landlord on August 29, 2017 for a one year fixed term tenancy beginning on September 1, 2017 that converted to a

month to month tenancy on September 1, 2018 for the monthly rent of \$1,150.00 due on the 1<sup>st</sup> of each month and a security deposit of \$575.00 was paid;

- A Notice of Rent Increase issued on May 24, 2018 increasing the rent to \$1,195.00 effective September 1, 2018; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 2, 2018 by the applicant that indicates the respondent failed to pay the full rent owed for the month of November 2018 and that the respondent was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on November 2, 2018 at 1:00 p.m. and that this service was witnessed by a third party.

The Notice states the respondent had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The respondent did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

### Analysis

Direct Request proceedings are conducted when a landlord issues a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and the tenant(s) has not filed an Application for Dispute Resolution seeking to cancel the Notice within 5 days of receiving the Notice. The proceeding is conducted *ex parte* and based solely on the paperwork provided by the applicant landlord.

Because the hearing is conducted without the benefit of having a participatory hearing in which I might question either of the parties if something is unclear in the paperwork, all documents submitted must be complete and clear.

As the landlord listed on the Tenancy Agreement is a corporate name and the Tenancy Agreement was signed by a person other than the applicant's name I find I cannot determine if the applicant is a party to this tenancy. There are no documents submitted that show that the applicant has authority act on the part of the landlord named in the Tenancy Agreement. As such, I find that this is not a suitable application to be adjudicated through the Direct Request process, as it is submitted.

### Conclusion

Based on the above, I dismiss this Application for Dispute Resolution in its entirety. I grant the applicant leave to reapply either through the Direct Request process with documentary evidence to support that he has a standing to bring the claim forward or by

applying for a participatory hearing where he can provide testimony to an Arbitrator who may then determine if he has standing to bring the claim forward..

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 28, 2018

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Residential Tenancy Branch