



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding DEVON PROPERTIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes   OPR-DR

### 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 filed by the Landlord for an order of possession based on unpaid rent.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that the Landlord served the Tenant with the Notice of Direct Request Proceeding and supporting documents in person on March 6, 2021, receipt of which was acknowledged by the Tenant’s signature. I find these documents were served on and received by the Tenant on March 6, 2021.

### Issue 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

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the Tenant on September 12, 2019 and by the Landlord on September 13, 2019, indicating a monthly rent of \$1,300.00 plus a parking fee of \$30.00 due on the first day of each month, for a tenancy commencing on September 23, 2019; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 8, 2021 for \$400.00 in unpaid rent (the “10 Day Notice”). The 10 Day Notice provides 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 on the stated effective date of February 21, 2021.

### Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

Section 52 of the *Act* confirms that a notice to end tenancy given by a landlord must be in the approved form. In this case, the 10 Day Notice submitted into evidence is in a 2-page form that was no longer approved or in use at the time it was issued. The current form is a 3-page document and is available on the Residential Tenancy Branch website.

In light of the above, I order that the 10 Day Notice is cancelled and is of no force or effect. Further, I order that the Landlord’s request for an order of possession based on the 10 Day Notice is dismissed without leave to reapply.

Conclusion

The 10 Day Notice is cancelled and is of no force or effect.

The Landlord's request for an order of possession based on the 10 Day Notice is dismissed without 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: March 18, 2021

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Residential Tenancy Branch