



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 19, 2011, the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. A copy of the Canada Post receipt was provided in the Landlord's evidence. The Tenant is deemed to have been served on August 24, 2011, five days after it was mailed, in accordance with Section 90 of the Act. Based on the Landlord's submission I find the Tenant has been sufficiently served notice of the Direct Request proceeding.

### Issue(s) to be Decided

1. Has the Tenant breached the *Residential Tenancy Act*, regulation or tenancy agreement?
2. If so, has the Landlord met the burden of proof to obtain an Order of Possession and a Monetary Order as a result of that breach?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant; and
- A copy of a residential tenancy agreement which was signed by the Landlord and the Tenant on March 12, 2009, for a fixed term tenancy agreement that began April 1, 2009 and switched to month to month tenancy after March 31, 2010 for the monthly rent of \$710.00 due on 1st of the month with a security deposit to be paid of \$355.00; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 3, 2011, with an effective vacancy date of August 13, 2011 due to \$720.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent in person on August 3, 2011 at 7:00 p.m. in the presence of a witness.

### Analysis

**Order of Possession** - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to have been received by the Tenant on August 3, 2011, and the effective date of the notice is August 13, 2011, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the Tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and I hereby approve the Landlord's request for an Order of Possession.

### Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Respondent 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: August 29, 2011.

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Residential Tenancy Branch