



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

### Dispute Codes

OPR, MNR

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) 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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 29, 2011 an agent for the Landlord served the first named Respondent with the Notice of Direct Request Proceeding by registered mail. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which corroborates that a package was mailed to this Respondent at the rental unit. Based on the written submissions of the Landlord, I find this Respondent has been served with the Dispute Resolution Direct Request Proceeding document. Section 90 of the Act stipulates that a document that is served by mail is deemed received on the fifth day after it is mailed which, in these circumstances, is September 03, 2011.

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### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 55 and 67 of the *Act*.

### Background and Evidence

I have reviewed the following evidence that was submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant.
- A copy of a residential tenancy agreement which appears to be signed by only one of the Tenants that indicates that the tenancy began on June 07, 2011 and that the rent of \$754.00.00 is due on the first day of each month.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed by an agent for the Landlord and dated August 02, 2011, which declares that the Tenants must vacate the rental unit by August 11, 2011 as they have failed to pay rent in the amount of \$754.00 that was due on August 01, 2011. The Notice declares that the tenancy will end unless the Tenants pay the rent within five days of receiving the Notice or submit an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of a signed Proof of Service of the 10 Day Notice to End Tenancy, in which an agent for the Landlord declared that he posted the Notice at the rental unit on August 02, 2011.

In the Application for Dispute Resolution the Landlord declared that the 10 Day Notice to End Tenancy for Unpaid Rent was posted on August 08, 2011.

In the Application for Dispute Resolution, the Landlord declared that the Tenants did not pay rent for August of 2011.

### Analysis

I find that there is insufficient evidence to conclude that both Respondents entered into a tenancy agreement with the Landlord. In reaching this conclusion I was heavily influenced by the tenancy agreement that was submitted in evidence, which appears to have been signed by only one of the Respondents.

### Conclusion

I find that a conference call hearing is required in order to determine whether the Landlord entered into a tenancy agreement, either written or oral, with both Respondents. I therefore order that the direct request proceeding be reconvened in accordance with section 74 of the *Act*. A copy of the Notice of Reconvened Hearing, this Interim Decision, the Application for Dispute Resolution, and any evidence that will

be introduced at the hearing by the Landlord must be served upon Tenants, in accordance with section 88 of the *Act*, within **three (3) days** of receiving this decision.

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 08, 2011.

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Residential Tenancy Branch