



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes OPR, MNR

### Introduction

This matter proceeded by way of 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 and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 6, 2012, the landlord served the tenants with the Notice of Direct Request Proceeding via posting on the door.

Section 90 of the Act determines that a document served in this manner is deemed to have been served three days later.

Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

The issues to be decided are whether the landlord are entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 46, 55 and 67 of the Act.

### Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenants;
- A copy of an incomplete residential tenancy agreement. Page two of the tenancy agreement which contains the day rent is payable and the amount of rent payable has not been provided.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 28, 2012, with a stated effective vacancy date of February 6, 2012, for \$750.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants had failed to pay all rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by

posting on the door on January 28, 2012. Section 90 of the Act deems the tenants were served on January 31, 2012.

The 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. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

### Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord.

However, the landlord's documentary evidence filed was insufficient, as the tenancy agreement is incomplete; page two has not been filed. Page two of the tenancy agreement would indicate the day rent is payable and the amount of rent payable by the tenants.

Therefore, I dismiss the landlord's application for an order of possession with leave to reapply.

Further, the landlord has applied for a monetary order for unpaid rent.

Section 39 of the Residential Policy Guideline states:

When the direct request proceeding package is posted on a tenant's door, a monetary order may not be issued through the direct request process.

Therefore, I dismiss the landlord's application for a monetary order with leave to reapply.

### Conclusion

The landlord's application for an order of possession and a monetary order for unpaid rent is dismissed 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: February 10, 2012.

---

Residential Tenancy Branch