



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

OPR, MNR

### **Introduction**

This matter was conducted 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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 29, 2012, the Landlord's agent served the Tenant with the Notice of Direct Request Proceeding by handing the documents to the Tenant at the rental unit.

Based on the written submissions of the Landlord, I find that the Tenant has been served with the Direct Request Proceeding documents.

### **Issue(s) to be Decided**

Is the Landlord entitled to an Order of possession?

Is the Landlord entitled to monetary compensation for unpaid rent?

### **Background and Evidence**

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent;
- A copy of a residential tenancy agreement which was signed by the parties on September 16, 2007, indicating a monthly rent of \$895.00 due on the first day of the month;
- A copy of a Notice of Rent Increase dated September 19, 2009, indicating rent will be \$923.00 effective January 1, 2010;

- A copy of a returned cheque to the Landlord from the Tenant dated September 1, 2012, in the amount of \$923.00, with a notation "insufficient funds"; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 15, 2012, with a stated effective vacancy date of September 26, 2012, for \$923.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the rent remains unpaid. The documentary evidence indicates that the Landlord served the 10 Day Notice to End Tenancy for Unpaid Rent by handing the document to the Tenant on September 15, 2012, at 9:45 a.m. The Proof of Service document is signed by a witness.

The Notice states that the Tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Tenant 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 Tenant was served with notice to end the tenancy as declared by the Landlord on September 15, 2012.

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.

Therefore, I find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of **\$923.00**.

### **Conclusion**

Pursuant to the provisions of Section 55 of the *Act*, I hereby provide the Landlord an Order of Possession effective **two days after service** of the Order upon the Tenant. This Order must be served on the Tenant and may be filed in the Supreme Court and enforced as an Order of that Court.

Pursuant to the provisions of Section 67 of the *Act*, I hereby provide the Landlord a Monetary Order in the amount of **\$923.00** for service upon the Tenant. This Order may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

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: October 01, 2012.

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Residential Tenancy Branch