



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Although served with the Application for Dispute Resolution and Notice of Hearing when it was posted on the door of his residence on September 20, 2013, the tenant did not appear.

### Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, on what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?

### Background and Evidence

The landlord testified that this was a month-to-month tenancy for a pad in a manufactured home park. He did not know how long the tenancy had existed. The monthly rent of \$375.00 plus GST was due on the first day of the month.

The landlord testified that this application was based upon a 10 Day Notice to End Tenancy dated August 11, 2013, which had been posted on the door of the tenant's residence on August 11. When the tenant did not pay the arrears, move or file an application disputing the notice, the landlord filed this application for dispute resolution on September 17, 2013. The landlord testified that as of the date of the hearing the tenant had not paid the August, September or October rent.

The landlord had not filed a copy of the 10 Day Notice to End Tenancy in advance of the hearing. He was given leave to file it after the hearing which he did by fax on October 11, 2013.

The notice that was filed appeared to be dated August 21, 2013, but that date had been crossed out. The notice refers to unpaid rent due on July 1, 2013, and the effective date of the notice is July 21, 2013. The notice is unsigned.

### Analysis

Section 52 of the *Residential Tenancy Act* states that in order to be effective a notice to end tenancy given by a landlord must:

- be in writing;
- be signed and dated by the landlord;
- give the address of the rental unit;
- state the effective date of the notice;
- state the grounds for ending the tenancy, and,
- be in the approved form.

The notice to end tenancy filed by the landlord does not meet all the requirements of section 52. As it does not, an order of possession cannot be granted. The landlord's application for an order of possession is dismissed with leave to re-apply.

Section 89 sets out the methods by which an application for dispute resolution may be served upon a respondent; in this case, the tenant. Among other methods, an application for an order of possession may be served by attaching a copy to a door or other conspicuous place at the address at which the tenant resides. However, an application for a monetary order may not be served in this manner. It must be served by personal service or registered mail. This application for dispute resolution was served by being posted to the door of the tenant's residence. Accordingly, the landlord's claim for a monetary order must be dismissed with leave to re-apply.

#### Conclusion

The landlord's application is dismissed with leave to re-apply.

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 21, 2013

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Residential Tenancy Branch