



# 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 for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent and to recover the cost of the filing fee from the tenant.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were posted to the door of the rental unit on October 22, 2013.

### Preliminary Issue

The landlord has applied for a monetary order for unpaid rent. The evidence of the landlord was that the application for dispute resolution was served by posting to the door of the rental. Under section 89(1) of the Act, an application for dispute resolution, must be given in one of the following, by leaving a copy with the person, or by sending a copy by registered mail. As a result, I find the landlord has failed to serve the tenant in a method permitted under the Act, when applying for a monetary order. Therefore, the landlord's application for a monetary order for unpaid rent is dismissed with leave to reapply.

The landlord has also applied for an order of possession pursuant to section 55 of the Act. The evidence of the landlord was that the application for dispute resolution was served by posting to the door of the rental on October 22, 2013. Under section 89(2) of

the Act, the landlord is permitted to serve the application for dispute resolution by posting to the door if the application is for an order of possession. Therefore, I find that the tenant has been duly served in accordance with the Act. The landlord's application for an order of possession proceeded at today's hearing.

The landlord appeared, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

### Issue to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

### Background and Evidence

Based on the testimony of the landlord, I find that the tenant was served with a notice to end tenancy for non-payment of rent on October 9, 2013, by posting to the door. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord testified the rent was not paid within five days and the tenant did not dispute the notice.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of \$50.00 comprised of the \$50.00 fee paid by the landlord for this application. The landlord is authorized to retain \$50.00 from the security deposit in full satisfaction of the claim.

Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and landlord is entitled to recover the filing fee from the tenant and may keep \$50.00 from the security deposit in full satisfaction of the claim.

The landlord's application for 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: November 04, 2013

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Residential Tenancy Branch

