



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION AND REASONS**

### **Dispute Codes**

OPR, MNR

### **Introduction**

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession for unpaid rent 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 July 30, 2014 the landlord served each tenant with the Notice of Direct Request Proceeding by registered mail sent to the dispute address. Pursuant to section 90(a) of the Residential Tenancy Act the tenant is deemed to have been served on the fifth day after the documents were sent.

Based on the written submissions of the Landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

### **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 a Monetary Order for unpaid rent pursuant to sections 55, and 67 of the *Residential Tenancy Act (Act)*.

### **Background and Evidence**

The landlord submitted the following evidentiary material:

- Proof of Service of the Notice of Direct Proceeding,
- Copy of a residential tenancy agreement signed by the parties, on March 15, 2014 with monthly rent of \$1,100.00 due on the 15<sup>th</sup> day of each month.

- Copy of 10-Day Notice to End Tenancy for Unpaid Rent , issued on July 19, 2014 due to \$940.00 in unpaid rent,
- Proof of service of the 10-Day Notice to End Tenancy for Unpaid Rent.
- A monetary worksheet indicating that the tenant still owes \$40.00 in rental arrears,
- Copies of other documents that are not relevant to the issue of unpaid rent.

The application filed by the landlord indicated that the amount of the claim for rental arrears is \$40.00. The Proof of Service form indicated that the Ten-Day Notice for Unpaid Rent was served to the tenant by posting it on the tenant's door on July 19, 2014. The Notice states that the tenants had five days to pay the \$940.00 in rent or to apply for Dispute Resolution.

### **Analysis**

I have reviewed all documentary evidence and accept that the tenant had been served with Notice To End Tenancy as declared by the landlord. I accept the evidence before me that the tenants have failed to pay rent owed in full within the 5 days granted under section 46 (4) of the Act.

Based on the facts, 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.

However, I find that the amount of arrears shown on the Ten Day Notice to End Tenancy for Unpaid Rent, \$940.00, is different than the amount shown as arrears still outstanding on the application, \$40.00, and there is insufficient details to explain the amount being claimed.

Therefore, I find that it is not possible to accurately determine what these arrears pertain to for the purpose of issuing a monetary order and the landlord's monetary claim must be dismissed.

However, I do accept the landlord's evidence showing that the tenant failed to pay all of the rental arrears within the 5-day period and I also find that the tenant did not dispute the Notice. Accordingly, I hereby grant the landlord an Order of Possession effective two days after service on 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.

The portion of the landlord's claim requesting a monetary order for rental arrears is dismissed without leave.

**Conclusion**

The landlord is partially successful in the application and is granted an Order of Possession and the landlord's monetary claim is dismissed without leave.

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: August 20, 2014

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Residential Tenancy Branch

