



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded by way of an *ex parte* 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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 28, 2017, the landlords posted the Notice of Direct Request Proceeding to the door of the rental unit. The landlords had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service. Based on the written submissions of the landlords and in accordance with sections 89(2) and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on May 1, 2017, the third day after their posting.

### Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 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 Request Proceeding served to the tenant;

- A copy of a residential tenancy agreement which was signed by the landlords and the tenant on January 7, 2017, indicating a monthly rent of \$2,000.00, due on the first day of the month for a tenancy commencing on January 10, 2017;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy;
- A copy of a receipt dated April 21, 2017, for \$800.00 of rent, paid by the tenant, which the landlords have indicated “does not reinstate your lease”; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated April 10, 2017, and personally served to the tenant on April 10, 2017, with a stated effective vacancy date of April 20, 2017, for \$800.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was personally served to the tenant at 1:00 (a.m. or p.m. not indicated) on April 10, 2017. The 10 Day Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

### Analysis

Section 52 of the *Act* provides the following requirements regarding the form and content of notices to end tenancy:

**52** *In order to be effective, a notice to end a tenancy must be in writing and must*

*(a) **be signed** and dated by the landlord or tenant giving the notice,*

*(b) give the address of the rental unit,*

*(c) state the effective date of the notice,...and*

*(e) when given by a landlord, be in the approved form...*

I have reviewed all documentary evidence and I find that the 10 Day Notice is not signed by the landlord. I note that the landlords resubmitted the same 10 Day Notice with the landlord signature added, however in a Direct Request Proceeding I have to be satisfied that the 10 Day Notice submitted by the landlords is an exact copy of the notice that was served to the tenant.

I find that the omission of the signature invalidates the 10 Day Notice as the landlords have not complied with the provisions of section 52 of the *Act*.

Therefore, I dismiss the landlords' application to end this tenancy and obtain an Order of Possession on the basis of the 10 Day Notice of April 10, 2017, without leave to reapply.

The 10 Day Notice of April 10, 2017 is cancelled and of no force or effect.

As the landlords have indicated the rent has been paid in full, the landlords' application for a Monetary Order is dismissed, without leave to reapply.

### Conclusion

The landlords' application for an Order of Possession on the basis of the 10 Day Notice of April 10, 2017, is dismissed, without leave to reapply.

The 10 Day Notice of April 10, 2017, is cancelled and of no force or effect.

This tenancy continues until it is ended in accordance with the *Act*.

I dismiss the landlords' application for a Monetary Order, without 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: May 02, 2017

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Residential Tenancy Branch