



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **Decision**

**Dispute Codes:** MNR, OPR, MNSD, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated August 19, 2008, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail the Tenant did not appear.

In regards to service, the landlord provided a receipt to confirm service of the hearing package by registered mail sent on September 4, 2008.

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

The landlord was seeking an Order of Possession and a monetary order claiming 2,700.00 in rental arrears.

The issues to be determined based on the testimony and the evidence are:

- Whether the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy and
- Whether the landlord is entitled to monetary compensation for rental arrears owed or loss of rent

### **Background and Evidence**

The landlord submitted into evidence a copy of the Ten-Day Notice to End Tenancy for Unpaid Rent dated August 19, 2008, which was served by posting on the tenant's door.

The effective date was August 29, 2008. However pursuant to section 53(1) of the Act the effective date would be amended to September 2, 2008, in recognition of the deemed three-days service applicable to posting the notice. The landlord testified that the rental rate was \$800.00 per month but that for the months of May, June, July, August and September, 2008, the landlord only received the ministry portion of the tenant's rent, \$325.00, leaving the remainder, of \$475.00 which was the tenant's portion to be paid directly..

Other documentary evidence included a letter to the tenant from the landlord, dated June 4, 2008 requesting rental arrears owed for May and June 2008.

### **Analysis**

Based on the testimony of the parties, I find that the tenant was served with a Ten-Day Notice to End Tenancy for Unpaid Rent. 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. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$2750.00 comprised of \$475.00 rent owed for the month of May, 2008, \$475.00 rent owed for the month of June 2008, \$475.00 rent owed for the month of July 2008, \$475.00 rent owed for the month of August 2008, \$475.00 rent owed for the month of September 2008 and the \$50.00 fee paid by the Landlord for this application. I order that the landlord retain the security deposit and interest of \$166.90 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$2,583.10. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### **Conclusion**

Under *section 55* of the *Act*, based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective September 30, 2008. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

Based on the testimony and evidence presented during these proceedings, I grant the landlord a monetary order under section 67 of the *Act* for \$2,583.10. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

September 25, 2008

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