



# Dispute Resolution Services

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

## **DECISION**

**Dispute Codes:** OPR, MNR, MNDC, FF.

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- A monetary order pursuant to Section 67;
- An order of possession pursuant to Section 55;
- An order to recover the cost of filing the Application for Arbitration pursuant to Section 72.

I find that the notice to end tenancy dated November 07, 2008 was served on the Tenant on November 07, 2008 by posting it on his front door. The notice of hearing dated November 21, 2008 was served to the tenant on November 21, 2008 by registered mail. Despite having been served the notice of hearing, the tenant did not show up for the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

### **Issues to be decided**

- Is the landlord entitled to an order of possession for unpaid rent?
- Is the landlord entitled to a monetary order for unpaid rent and the filing fee?

### **Background and Evidence**

The landlord testified that the fixed term tenancy began on September 01, 2008 for a period of six months, and the tenant paid a security deposit of \$375.00 on August 22, 2008. The monthly rent is \$750.00 due in advance on the first day of the month.

The tenant failed to pay rent for November and the landlord served him a ten day notice to end tenancy for rent. The tenant continues to occupy the rental unit and the landlord is making a claim for November's rent and loss of income for December.

He is also claiming a late fee of \$25.00 for November, which is stipulated in the terms of the tenancy agreement. The landlord is also making a claim for an order of possession effective two days after service on the tenant.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent or dispute the notice by making application for dispute resolution. If the tenant does not pay rent or dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date. The tenant did not pay the amount he owed within five days of receiving the notice to end tenancy nor did he make application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. Pursuant to section 55(2), I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to rent owed in the amount of \$750.00 for November, loss of income in the same amount for December and \$25.00 towards a late fee charge. I also find that the landlord is also entitled to the filing fee in the amount of \$50.00. I grant the landlord a monetary order under section 67 of the *Residential Tenancy Act* for the amount due of \$1575.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord a monetary order in the amount of **\$1575.00** and an order of possession effective two days after service on the tenant.

Dated December 10, 2008.

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Dispute Resolution Officer

