



# Dispute Resolution Services

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

## **DECISION AND REASONS**

**Dispute Codes:** OPR, MNR.

### **Introduction**

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

- A monetary order for unpaid rent, pursuant to Section 67;
- An order of possession pursuant to Section 55;

Both parties attended the hearing and were 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?

### **Background and Evidence**

Based on the sworn testimony of both parties, the facts are as follows:

The tenancy started on August 01, 2008. The rent was set at \$880.00 and is payable in advance on the first day of the month. The rental suite was shared by the tenant and the tenant's partner. On December 01, 2008, the tenant's partner paid half the rent for December and moved out of the rental unit. The tenant failed to pay the balance of the rent and on December 02, 2008 was served a ten day notice to end tenancy with an effective date of December 12, 2008. The tenant did not move out and continues to occupy the rental unit as of the date of this hearing. The tenant also did not pay the balance of rent for December nor has the tenant paid rent for January 2009.

The landlord has applied for an order of possession and a monetary order in the amount of \$1320.00 which consists of rent owed for December 2008 (\$440.00) and January 2009 (\$880.00).

**Analysis**

Based on the sworn testimony of the landlord and tenant, 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 rent within five days of receiving the notice to end tenancy nor did the tenant 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 for December and January for a total of \$1320.00 and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

**Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant and a monetary order in the amount of **\$1320.00**

Dated January 22, 2009.

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Dispute Resolution Officer