



# Dispute Resolution Services

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

## Decision

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

### Introduction

This hearing was scheduled to deal with the landlord's application for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, damage or loss under the Act, regulations or tenancy agreement, to retain the tenant's security deposit and recover the filing fee. The tenant did not appear at the hearing. The landlord testified that the tenant was personally served with notification of the hearing on February 16, 2009 and had signed that he received the hearing package. I was satisfied that the tenant had been adequately served with notice of this hearing and I proceeded to hear from the landlord without the tenant present.

At the commencement of the hearing the landlord testified that the tenant paid the outstanding rent on January 19, 2009 and that the landlord is seeking a conditional Order of Possession and a Monetary Order for the amount of the filing fee. I accepted the landlord's request to amend the Application for Dispute Resolution.

### Issue(s) to be Decided

1. Granting a conditional Order of Possession.
2. Award of the filing fee.

### Background and Evidence

The landlord testified that the tenant is required to pay \$675.00 per month in rent. On January 2, 2009 the tenant was personally served with a *10 Day Notice to End Tenancy*

*for Unpaid Rent* (the Notice). The tenant did not dispute the Notice or pay the outstanding rent within five days of receiving the Notice. The tenant did pay the outstanding rent, and late fee, and NSF fee, on January 19, 2008 bringing his ledger up to date. The landlord stated that the tenant had been out of work recently but that he had returned to work and the landlord is willing to continue with this tenancy provided the tenant pays his March 2009 rent on time and in full. The landlord was requesting an Order of Possession be provided to the landlord with the agreement that it would be served upon the tenant only if the tenant does not pay rent on March 1, 2009 in the full amount full. If the tenant pays his March 1, 2009 rent in full and on time, the Order of Possession becomes null and void.

The landlord is requesting that the landlord be awarded the filing fee paid for this application. The landlord requested that the landlord be provided a Monetary Order for \$50.00 to ensure the tenant pays the filing fee and was agreeable that the tenant may have 30 days to pay the filing fee.

### Analysis

Where a tenant receives a 10 Day Notice and does not pay or dispute the Notice within five days, the tenant is conclusively presumed to have accepted the tenancy will end. Upon review of the Notice served upon the tenant and the undisputed testimony that the tenant paid the outstanding rent more than five days after receiving the Notice, I am satisfied that the landlord is entitled to an Order of Possession. I accept the landlord's condition that the Order of Possession will become null and void and the tenancy will be reinstated if the tenant pays rent in full on March 1, 2009. In the event the tenant does not fulfill his obligation to pay his rent on March 1, 2009 the landlord is at liberty to serve the Order of Possession upon the tenant. The Order of Possession will have an effective date of two days after service, meaning the tenant would be required to vacate the rental unit two days after being served with the Order of Possession.

I grant the landlord's request for the filing fee. The tenant is, hereby, ORDERED to pay the landlord \$50.00 for the cost of this application within 30 days of the date of this decision. The landlord is provided with a Monetary Order to ensure the tenant pays the filing fee.

### Conclusion

The landlord is provided an Order of Possession that may be served upon the tenant if the tenant does not pay rent in full on March 1, 2009. The landlord was awarded the filing fee paid for this application and the tenant has 30 days from the date of this decision to pay the landlord \$50.00 in satisfaction of this award. The landlord has been provided a Monetary Order in the event the tenant does not pay the filing fee to the landlord.

February 20, 2009

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Date of Decision

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Dispute Resolution Officer