



# 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, MNSD, FF.

### **Introduction**

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

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

The notice to end tenancy for non payment of rent, dated January 07, 2009 was served on the Tenant on January 07, 2009, by registered mail. The notice of hearing dated January 20, 2009 was served on the tenant on January 21, 2009, 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 tenancy started on September 01, 2002 on a month to month basis. The rent is subsidised based on the monthly income of the tenant. This income is reviewed annually. The tenant was due for an income review on September 01, 2008 and failed to respond to the landlord's request for the relevant documentation, which was served to the tenant three months in advance of the review date. In addition, the tenant failed to pay rent for August 2008 in the amount of \$355.00.

Since the tenant did not follow up on the annual review, the tenant stopped receiving the subsidy and the rent went up to \$1200.00. The tenant has not paid rent since

August 2008 and the landlord has applied for an order of possession effective two days after service on the tenant and a monetary order for the following:

1.	Rent for August 2008	\$355.00
2.	Rent for September 2008 – February 2009 @ \$1200.00	\$7200.00
3.	Rent for half of March 2009	\$600.00
4.	Filing fee	\$100.00
	Total	<b>\$8255.00</b>

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on January 07, 2009 and 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. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. 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 also find that the landlord is entitled to \$8255.00 for unpaid rent and the filing fee and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$8255.00. 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 **\$8255.00**

Dated March 03, 2009.

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Dispute Resolution Officer