

# 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;
- An order to retain the security deposit in satisfaction of the monetary claim, pursuant to section 38;
- An order to recover the filing fee, pursuant to section 72.

The notice of hearing dated March 25, 2009 was served on the tenant on March 28, 2009, by registered mail to the dispute address. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

During the hearing, the landlord withdrew the portion of his application that dealt with retaining the security deposit.

### **Issues to be decided**

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

### **Background and Evidence**

The landlord testified that the tenancy started on December 08, 2008. The monthly rent is \$875.00 due in advance on the 15th of each month. The tenant failed to pay rent for the months of February and March and on March 18, 2009; the landlord served the tenant with a ten day notice to end tenancy. The tenant has not paid rent for April or May 2009.

The landlord is applying for an order of possession and a monetary order in the amount of \$3,550.00 which consists of outstanding rent for February, March and April and May 2009 (\$3,500.00) and the filing fee (\$50.00).

### **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 March 18, 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 \$3,500.00 for unpaid rent and \$50.00 for the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$3,550.00. 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 for **\$3,550.00**

Dated May 20, 2009.

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Dispute Resolution Officer