



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR (MNR) (MNSD)

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession. At the outset of the hearing the landlord requested to amend her application to include a Monetary Order for unpaid rent and to keep all or part of the security deposit.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on June 17, 2009. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant collected the hearing documents on June 18, 2009.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form.

There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Whether the landlord is entitled to an Order of Possession?
- Is the landlord entitled to keep all or part of the security deposit and interest?
- Whether the landlord is entitled to a Monetary Order to recover unpaid rent?



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Background and Evidence

This tenancy started on August 01, 2006. This is a month to month tenancy and rent is now \$988.00 per month due on the 1st of each month. The tenants paid a security deposit of \$475.00 on August 03, 2006.

The tenant did not pay rent for May, 2009 of \$988.00. The landlord issued a 10 Day Notice to End the Tenancy for unpaid rent on May 28, 2009. This was given in person to a family member the landlords agent believed to be residing at the rental property. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on June 06, 2009. The tenant did not pay the outstanding rent or dispute the Notice within five days. The landlord applied for Dispute Resolution on June 15, 2009. Since that time the tenant has not paid rent for June or July, 2009 of \$1,976.00 The total amount of rent arrears is \$2,964.00. The landlord has requested to amend her application to include a Monetary Order to recover the rent arrears for May, June and July, 2009 and to keep the tenants security deposit in partial payment of the arrears.

Analysis

The tenant did not appear at the hearing, despite having been sent a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that the landlord is entitled to recover rent arrears for May, June and July, 2009 of \$2,964.00. **I order** the landlord pursuant to s. 38(4) of the Act to keep the tenant's security deposit in partial payment of the rent arrears.

The landlord will receive a monetary order for the balance owing as follows:

Outstanding rent for May, June and July, 2009	\$2,964.00
Total amount due to the landlord	\$2,473.61

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to s. 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay



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the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under s. 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,473.61**. The order must be served on the tenant and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days** after service on the tenant. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 23, 2009.

Dispute Resolution Officer