



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

OPR, MNR

### Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent and a monetary Order for unpaid rent.

The Landlord stated that she personally served copies of the Application for Dispute Resolution and Notice of Hearing to the Tenant on July 09, 2009. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 55 and 67 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The Landlord stated that this tenancy began in 1998 and that the Tenant is currently required to pay monthly rent of \$650.00 on the first day of each month. She stated that the parties also have a verbal agreement that the Tenant will pay the cost of her own utilities, including water bills.

The Landlord stated that she personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of July 02, 2009, on June 22, 2009. The Notice declared that the Tenant owed \$550.00 in rent that was due on June 01, 2009. The Notice indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental unit by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

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The Landlord stated that the Tenant paid all of the outstanding rent for June of 2009 on June 26, 2009. She stated that the Tenant does not currently owe any money in rent.

The Landlord stated that the Tenant still owes money for an unpaid water bill, although she is uncertain of the exact amount that is currently owing. The Landlord did not submit a bill to establish the amount that is due.

## Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$650.00 on the first day of each month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant did not pay the rent when it was due on June 01, 2009.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days if appropriate notice is given to the tenant. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a Notice to End Tenancy, served pursuant to section 46 of the *Act*, was served on the Tenant on June 22, 2009, which declared that the Tenant owed \$650.00 in rent.

Section 46(4) of the *Act* stipulates that a Notice to End Tenancy has no effect if the tenant pays the outstanding rent within five days of receiving the Notice to End Tenancy. The evidence shows that the Tenant did pay the outstanding rent within five days of receiving this Notice. I therefore find that the Notice to End Tenancy is of no force and effect, and I dismiss the Landlord's application for an Order of Possession for Unpaid Rent.

I find that the Landlord has submitted insufficient evidence to establish how much the Tenant owes for water. On this basis, I dismiss her application for compensation for unpaid water bills, with leave to reapply once she is able to establish the amount that is due.

## Conclusion

As I have determined that the Notice to End Tenancy that was served upon the Tenant is of no force and effect, I find that this tenancy must continue until it is ended in accordance with the *Act*.



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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: August 20, 2009.

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Dispute Resolution Officer