

# 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, MNDC, FF

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for rental arrears, loss of income for October and the filing fee.

The notice of hearing dated August 12, 2009 was served on the tenant on August 14, 2009, in person. The landlord's witness testified that he had witnessed the landlord handing over the notice of hearing package to the tenant. 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.

### **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, loss of income and the filing fee?

### **Background and Evidence**

The landlord testified that the tenancy started on April 01, 2007. The monthly rent is \$795.00 due in advance on the first of each month. The landlord stated that the tenant was consistently late paying rent and would catch up later in the month.

The tenant stopped paying rent in March and kept promising the landlord that he would catch up on rent. The landlord called his employer and confirmed that the tenant was still employed and gave the tenant some extra time to pay because he was granted part time custody of his two children and therefore had some additional expenses. When the tenant did not pay any rent by August 01, the landlord served him with a ten day notice to end tenancy. The tenant has not made any payments towards his rental arrears, to this date and continues to occupy the rental unit.

The landlord has applied for an order of possession and is claiming the above rental arrears in the amount of \$5,565.00. The landlord has also applied to recover the filing

fee of \$100.00 and for loss of income for October as he will not be able to find a tenant for October 01, 2009.

### **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 August 01, 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 has established a claim for a total of \$5,565.00.00 for unpaid rent for the months of March to September 2009. I accept that the landlord will not be able to find a tenant for October and will award him loss of income for half the month of October in the amount of \$397.50. Since the landlord has proven his case, I find that he is also entitled to \$100.00 for the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$6,062.50. 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 **\$6,062.50**.

Dated September 29, 2009.

---

Dispute Resolution Officer