



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes - OPR, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenancy began on September 1, 2008 as a month to month for the monthly rent of \$1300.00 due on the 1<sup>st</sup> of the month and a security deposit of \$650.00 was paid prior to the start of the tenancy; and

The landlord submitted the following evidentiary material:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 29, 2009 with an effective vacancy date of October 12, 2009 due to \$3900.00 in unpaid rent; and
- Substantial volume of emails between the parties

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent and utilities owed for the months of July, August, September, and October, 2009 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the door of the rental unit on September 29 2009.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days. The tenant also did not pay the outstanding rent and the landlord confirmed the tenant has not paid November 2009 rent either.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on September 29, 2009, and the effective date of the notice is amended to October 9, 2009, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

I find that the landlord is entitled to an Order of Possession 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.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and therefore grant a monetary order in the amount of **\$8221.25** comprised of \$8121.25 rent and utilities owed and the \$100.00 fee paid by the Landlord for this application. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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: December 01, 2009.

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Dispute Resolution Officer