



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, a fine levied by the strata and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim.

The notice of hearing was served on the tenant on November 19, 2009, by registered mail. The landlord provided a tracking number. 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, the fine, the filing fee and to retain the security deposit?

### **Background and Evidence**

The tenancy started on September 07, 2009. The monthly rent is \$1,900.00 due in advance on the first of each month. The tenant paid a security deposit of \$200.00. The landlord stated that the tenant paid only part of the security deposit and promised to pay an additional \$200.00 each month until fully paid.

On October 05, the landlord received a bylaw violation fine notice in the amount of \$200.00, from the property manager. The fine was levied on the tenant for throwing cigarette butts out the window onto common property.

The tenant failed to pay rent for October. On October 09, 2009, the landlord served the tenant with a ten day notice to end tenancy for non payment of rent. The tenant did not pay rent and continues to reside in the rental unit. At the time of the hearing, the tenant owed the landlord rent for October, November and December.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$5,950.00 which consists of rental arrears (\$5,700.00), Strata fine (\$200.00) 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 October 09, 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 find that the landlord is entitled to \$5,700.00 for unpaid rent and \$200.00 for the strata fine. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. I order that the landlord retain the security deposit of \$200.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$5,750.00. 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 in the amount of **\$5,750.00**.

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 04, 2009.

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Dispute Resolution Officer