



# 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, late fees 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 27, 2009, in person. 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, late fees, the filing fee and to retain the security deposit?

### **Background and Evidence**

The tenancy started on December 01, 2002. The monthly rent is \$740.00 due in advance on the first of each month. The tenant paid a security deposit of \$330.00. The tenancy agreement contains a clause that requires the tenant to pay a late fee of \$25.00 for rent paid after the first of the month.

The tenant failed to pay rent for October. On October 05, 2009, the landlord served the tenant with a ten day notice to end tenancy for non payment of rent. The tenant paid partial rent on October 21. The tenant paid another instalment of rent in the amount of \$650.00 on December 07, 2009. At the time of the hearing, the tenant still occupied the rental unit and owed the landlord rent and late fees in the following amount:

1.	Balance rent for October plus \$25.00 late fee	\$415.00
2.	Rent for November plus \$25.00 late fee	\$765.00
3.	Balance rent for December plus \$25.00 late fee	\$115.00
4.	Rent for January 2010 plus \$25.00 late fee	\$765.00
5.	Filing fee	\$50.00
	<b>Total</b>	<b>\$2,110.00</b>

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 \$2,110.00.

### **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 05, 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 \$2,060.00 for unpaid rent and late fees. 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 \$330.00 and the applicable accrued interest of \$11.68 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 \$1768.32. 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 **\$1768.32**

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: January 08, 2010.

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Dispute Resolution Officer