



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes

For the landlord OPR, MNR, FF

For the tenant – CNR, FF

### Introduction

The matter was set for a joint hearing at 11 am on this date to hear the tenants and landlords applications. The hearing went ahead as scheduled but after 10 minutes the tenant had not dialed into the conference call. Therefore, no hearing took place regarding the tenants' application.

The hearing commenced with the landlords application to obtain an Order of Possession for unpaid rent, a Monetary Order for unpaid rent and additional fees and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on December 15, 2009. The landlord amended his application on January 12, 2010 and served the tenant with this amended copy on January 13, 2010, 2009. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on December 20, 2009 and January 18, 2010 respectively, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. All of the testimony and documentary evidence was carefully considered.

## Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Is the landlord entitled to claim for money owed under the *Act*, regulation or tenancy agreement?
- Is the landlord entitled to an Order of Possession?
- Is the landlord entitled to recover filing fees from the tenant for the cost of the application?

## Background and Evidence

This tenancy started on July 01, 2009. This was a fixed term tenancy for one year and was due to expire on June 30, 2010. The tenant agreed to pay the monthly rent of \$850.00 on the first day of each month.

The landlord claims that the tenant paid her first month's rent in July 2009. Since that date she has been repeatedly late paying rent. She paid rent for August on August 12, 2009 and incurred a late penalty fee of \$6.00 per day for 11 days at \$66.00. She paid rent for September by cheque but the cheque was returned as there were insufficient funds available (NSF). The tenant then paid September's rent on September 16 and the landlord charged the tenant \$48.00 for NSF fees but waived the late penalty fees for that month. The tenant paid rent for October on October 06 and incurred a late penalty fee of \$30.00. The tenant paid rent for November on November 09 and incurred a late penalty fee of \$48.00. The landlord served the tenant with a One Month Notice to End Tenancy for Cause on November 30, 2009 giving the reason that the tenant is repeatedly late paying rent.

On November 18, 2009 the tenant paid \$425.00 and on November 19 she paid \$360.00 towards her rent for December, 2009 this left a balance owing for December's rent of \$65.00. On December 09 the tenant paid \$70.00 she again incurred a late penalty fee of \$48.00 but as she overpaid her rent by \$5.00 this fee was reduced accordingly to \$43.00



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Each month the tenant paid her rent late the landlord served her with a 10 Day Notice to End Tenancy for unpaid rent on the second day of each month. The landlord accepted her late rent payment for December, 2009 for use and occupancy only. The tenant paid \$300.00 towards her rent for January 2010 on January 11, 2010. The remainder of rent for January remains unpaid. The landlord seeks a Monetary Order for \$833.00 for late fees, NSF fees and the balance of rent for January, 2010. The landlord also seeks the \$50.00 filing fee for this application.

The landlord seeks an Order of Possession to take effect as soon as possible.

## Analysis

I have carefully considered all the evidence before me. The tenant did not appear for this hearing despite being served notice of the hearing and despite having made an application to cancel the notice for unpaid rent. In the absence of any evidence from the tenant I find the tenant has been repeatedly late paying her rent since August 2009 and has failed to pay the balance due of **\$550.00** for her rent for January, 2010. The tenancy agreement signed by the tenant states that the landlord will charge the tenant \$6.00 for each day rent is late and \$48.00 for NSF fees. Consequently the tenant has incurred the additional charges of **\$283.00** from August to December, 2009. Therefore, I find the landlord is entitled to recover the amount of **\$833.00** from the tenant pursuant to s.67 of the *Act*.

I find the landlord has provided sufficient evidence to support the reason given on the One Month Notice to End Tenancy for Cause and as such is entitled to an Order of Possession pursuant to s.55 of the *Act*.

As the landlord has been successful with his claim he is also entitled to recover the **\$50.00** filing fee paid for this application pursuant to s.72(1) of the *Act*. A Monetary Order has been issued for the following amount:

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| Late fees and NSF fee | \$283.00 |
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|----------------------------------|----------|
| Filing fee                       | \$50.00  |
| Total amount due to the landlord | \$883.00 |

## Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$883.00**. The order must be served on the tenant and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord 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.

The tenants' application is dismissed in its entirety without leave to reapply.

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 25, 2010.

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Dispute Resolution Officer