



# 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.

The hearing was conducted via teleconference and was attended by the landlord only. The tenant did not attend.

The landlord testified that he served the tenant with the Notice of Hearing documents on June 14, 2010 personally at the rental unit. I accept the tenant was served in accordance with the *Residential Tenancy Act (Act)*.

### 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 *Act*.

### Background and Evidence

The tenancy began on February 15, 2010 as a month to month tenancy for a monthly rent of \$1,250.00 due on the 1<sup>st</sup> of the month and a security deposit was paid.

The landlord submitted the following evidentiary material:

- A copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property issued May 30, 2010 with an effective vacancy date of July 31, 2010, citing the rental unit will be occupied by the landlord or the landlord's spouse or close family members;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 4, 2010 with an effective vacancy date of June 17, 2010 due to \$1,250.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the months of June, July 2010 and the landlord cannot yet determine if the tenant has vacated the property as of today's date and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the rental unit door on June 4, 2010.

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 landlord had previously, on May 30, 2010 issued a 2 month notice as the landlord plans to move in to the rental unit.

### 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 tenant on June 7, 2010 and the effective date of the notice is June 17, 2010. I accept the evidence before me that the tenant failed to pay the rent owed in full with in 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.

I also note that because the landlord had already provided the tenant with a 2 Month Notice to End Tenancy, he remains obligated to provide the tenant with compensation in the equivalent of one month's rent as outlined in Section 51 of the *Act*. However, as the tenant failed to vacate the rental unit prior to August 1, 2010, I find the tenant is responsible for rent for the month of August 2010.

### 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 grant a monetary order in the amount of **\$2,550.00** comprised of \$2,500.00 rent owed and the \$50.00 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: August 03, 2010.

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Dispute Resolution Officer