



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes – OPR, MNR, MNSD, 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 on June 24, 2010 the landlord served the tenant with the Notice of Hearing documents via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5<sup>th</sup> day after it is mailed. In addition, when the documents were returned unclaimed the landlord served the tenant personally with the hearing documents on July 27, 2010.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the Dispute Resolution Notice of Hearing documents.

### 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; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on February 3, 2010 for a month to month tenancy beginning on January 15, 2010 for the monthly rent of \$1595.00 due on the 1<sup>st</sup> of the month and a security deposit of \$797.50 was paid on January 7, 2010; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 10, 2010 with an effective vacancy date of June 20, 2010 due to \$6101.02 in unpaid rent.

Documentary evidence and testimony filed by the landlord indicates that the tenant failed to pay the full rent owed for the months of March, April, May, June, July and August 2010 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 10, 2010.

The landlord further testified that he determined the tenant had abandoned the rental unit and has re-rented the rental unit effective August 15, 2010. As such, the landlord claims only ½ month rent for August 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.

### Analysis

I have reviewed all documentary evidence and testimony 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 13, 2010 and the effective date of the notice is amended to June 23, 2010, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant 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 in the amount of **\$9316.02** comprised of \$9266.02 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$797.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$8518.52**. 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 18, 2010.

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Dispute Resolution Officer