



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent and the tenant.

### Issues(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 *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenancy began on December 1, 2008 as a month to month tenancy with a current monthly rent of \$324.00 due on the 1<sup>st</sup> of the month, a security deposit of \$302.00 was paid.

The landlord testified that the tenant failed to pay rent for July 1, 2010 but that he had some small overages amounting to \$6.00 that were applied to the outstanding rent prior to issuing the notice to end tenancy. The landlord issued and served a 10 Day Notice for Unpaid Rent on July 14, 2010 for unpaid rent in the amount of \$318.00.

The landlord testified that the notice was served by putting it on the rental unit door. The tenant states that he had been away and a friend was staying in his rental unit at the time the notice was served and that he did not get a copy of it until he received the landlord's evidence package on August 23, 2010.

The tenant further testified that he immediately saw his case manager through the local Mental Health authority and his case manager wrote a letter, submitted into evidence, proposing that the tenant pay rent in full when it is due for September plus \$100.00 to pay off the arrears.

The landlord testified the tenant had not paid full rent for July and August 2010 but that he did pay rent for September when due but he did not pay the additional \$100.00. The tenant testified he had to pay his phone bill instead of the \$100.00 to cover rental arrears.

The landlord testified that the tenant has a history of late payments and that he always makes promises and then fails to follow through. The tenant acknowledges that he does struggle with his memory and he often forgets promises he has made or to follow through.

The landlord and tenant mutually agreed should the landlord be successful in this application that the order of possession should take effect on September 30, 2010.

### Analysis

I have reviewed all documentary and testimonial 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 July 17, 2010 and the effective date of the notice is amended to July 27, 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.

While the 10 Day Notice for Unpaid Rent was served to the tenant at his address and it indicates that address as the service address, I accept that the address provided further in the notice is a typographical error and find the notice to be effective.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **September 30, 2010, 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 **\$692.00** comprised of \$642.00 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: September 13, 2010.

---

Dispute Resolution Officer