



# 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 the landlord's request for an Order of Possession and Monetary Order for unpaid rent and recovery of the filing fee. The tenant did not appear at the hearing. The landlord provided evidence that the hearing documents were sent to the tenant by registered mail on July 30, 2010 and the tenant picked up the registered mail on August 20, 2010. Having been satisfied that the tenant was sufficiently notified of this hearing I proceeded to hear from the landlord without the tenant present.

At the commencement of the hearing the landlord informed me that the tenant had vacated the rental unit near the end of August 2010. Accordingly, an Order of Possession is no longer required and I do not provide one with this decision.

In the details of dispute the landlord indicated that the landlord would be seeking loss of rent for any time the tenant was overholding the rental unit. I accepted that the tenant has been notified that the landlord is making a claim for loss of rent and have considered loss of rent in making this decision.

### Issues(s) to be Decided

Is the landlord entitled to a Monetary Order for unpaid rent and loss of rent?

### Background and Evidence

The landlord provided the following undisputed evidence. The tenancy commenced June 4, 2010. The tenancy agreement provided that the tenant would pay rent of \$482.00 on the 1<sup>st</sup> day of every month. No security deposit was paid or collected. The tenant paid a pro-rated rent for June 2010 and did not pay any rent thereafter. On July 12, 2010 the landlord posted a *10 Day Notice to End Tenancy for Unpaid Rent* (the Notice) on the tenant's door indicating that \$482.00 was outstanding as of July 1, 2010 and had an effective date of July 22, 2010. The tenant did not dispute the Notice.

I also heard that on August 24, 2010 the tenant advised the landlord's site representative that she would be vacating the rental unit on the following Saturday. On Monday August 30, 2010 the landlord's site representative confirmed the tenant had vacated the unit.

The landlord is seeking to recover the unpaid rent for July 2010 and loss of rent for the month of August 2010. Provided as documentary evidence by the landlord are copies of the tenancy agreement, the 10 Day Notice, and proof of service of the hearing documents.

### Analysis

Under the Act a tenant must pay rent when due in accordance with the terms of the tenancy agreement. If a tenant does not pay rent when due the landlord is at liberty to issue a 10 Day Notice to End Tenancy for Unpaid Rent under section 46 of the Act.

Under section 46 of the Act, where a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent or dispute the Notice. Otherwise, the tenant is conclusively presumed to have accepted the Notice and must vacate the rental unit by the effective date. Based upon the evidence presented to me, I am satisfied the landlord served the tenant with a 10 Day Notice by posting it on July 12, 2010. Since

the Notice was posted it is deemed to be received three days later and the effective date is automatically changed to read July 25, 2010 under section 53 of the Act. I am satisfied the tenant did not pay the outstanding rent or dispute the Notice within five days of receiving the Notice and the tenancy ended July 25, 2010.

Upon review of the evidence before me I am satisfied that the landlord is entitled to recover unpaid rent of \$482.00 for the month of July 2010. I am further satisfied that since the tenant continued to occupy the rental unit in August 2010 the landlord is entitled to recover loss of rent in the amount of \$482.00 for the month of August 2010. Therefore, I grant the landlord's request and provide the landlord with a Monetary Order calculated as follows:

Unpaid rent – July 2010	\$ 482.00
Loss of rent – August 2010	482.00
Filing fee	<u>50.00</u>
Monetary Order	<u>\$ 1,014.00</u>

The landlord must serve the Monetary Order upon the tenant and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

### Conclusion

The landlord has been provided a Monetary Order in the amount of \$1,014.00 to serve upon the tenant.

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 17, 2010.

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Dispute Resolution Officer