



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, monetary orders for unpaid rent and for money owed or compensation under the Act, and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me. The Tenant was also assisted by an Advocate.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

### Background and Evidence

Based on the testimony of both parties, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on September 3, 2010. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The Tenant acknowledged that the rent was owing to the Landlord as claimed, and that an order of possession was appropriate in these circumstances.

The Advocate for the Tenant explained the Tenant and his wife have personal challenges that require special housing needs and requested that the order of

possession being granted take into account the time it would take to find alternate housing.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession.

The Agent for the Landlord consented to the order being effective for **1:00 p.m. November 15, 2010**. This order may be filed in the Supreme Court and enforced as an order of that Court.

As the Landlord consented to a later date for the order of possession, the Tenant consented to an additional ½ month of rent being paid to the Landlord and that the Landlord should retain the security and pet damage deposits.

Therefore, I find that the Landlord has established a total monetary claim of **\$2,275.00** comprised of \$1,600.00 in rent due to today, \$525.00 for ½ month of rent for November 2010, \$100.00 in late fees and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the security and pet deposits of **\$925.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$1,350.00. (I note that no interest is payable on deposits held for 2009 and 2010.)

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is therefore presumed under the Act to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord consented to an Order of Possession past the effective date of the Notice, may keep the security and pet deposits in partial satisfaction of the claim and is granted a monetary order for the balance due.

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: October 27, 2010.

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Dispute Resolution Officer