



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute codes      OP MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail and signed as received on August 23, 2010, the tenant did not appear.

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

This tenancy began on April 1, 2010. The rent is \$775.00 due in advance on the first day of each month. A security deposit of \$400.00 was paid at the start of the tenancy. On August 3, 2010 the tenant was served with a Notice to End Tenancy for non-payment of rent. The tenant has not paid the outstanding rent and did not file an application to dispute the Notice.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order and Security Deposit* - I find that the landlord has established a total monetary claim of \$2,375.00 comprised of \$775.00 in unpaid rent for each of August, September and October and the \$50.00 fee paid by the landlord for this application. I dismiss the landlord's claim for \$75.00 in late fees because the tenancy agreement does not provide for such fees as required by Section 7(2) of the Regulations. I order that the landlord retain the deposit and interest of \$400.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,975.00. This order may be filed in the Small Claims Court 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*.