



# 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 the landlord's Application for Dispute Resolution seeking a monetary order and an order of possession.

The hearing was conducted via teleconference and was attended by both landlords. The tenant did not attend.

The landlord submitted written confirmation that the notice of this hearing was served directly to the tenant in person on September 17, 2010 at 4:30 p.m. at the rental unit and that this service was witnessed by a third party.

The landlord had also submitted confirmation that the tenant vacated the rental unit on September 20, 2010 without providing a forwarding address and as such an order of possession is no longer required. I amend the landlords' application to exclude the matter of an order of possession.

The landlord submitted additional evidence and photographs related to compensation for damage done to the rental unit and cleaning required. As the landlord's original application did not contain a request for the security deposit or for a monetary order for damage to the rental unit, I do not accept this amendment at this time but note that the landlord is at liberty to file a separate Application for Dispute Resolution for those matters.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled 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 landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on December 15, 2009 for a month to month tenancy beginning on January 1, 2010

for the monthly rent of \$1150.00 due on the 1<sup>st</sup> of the month and a security deposit of \$500.00 and a pet damage deposit of \$50.00 was paid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 3, 2010 with an effective vacancy date of September 16, 2010 due to \$1,190.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the months of July, August and September 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent personally on September 3, 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 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 September 3, 2010 and the effective date of the notice is September 16, 2010. 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 monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$2,390.00** comprised of \$2,340.00 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: October 22, 2010.

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Dispute Resolution Officer