



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession, a Monetary Order for unpaid rent, and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on September 22, 2010. Mail receipt numbers were provided by the landlord. The tenant was deemed to be served the hearing documents on September 27, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord testifies that this agreement was put in place with the tenant to rent this unit from November 18, 2008. His monthly rent was agreed at \$500.00 which was due on the 1st of each month.



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The landlord states the tenant has not paid rent from April 01, 2010. A 10 Day Notice to End Tenancy was served to the tenant by registered mail on August 19, 2010 and September 10, 2010. These were uncollected and the landlord then posted the Notice to his door on September 10, 2010. This Notice stated that the tenant owed an amount of rent to the sum of \$2,500.00. Since that time the tenant failed to pay his rent for September and October, 2010 and the landlord has applied to amend her application to include unpaid rent for October, 2010.

The landlord seeks a Monetary Order to the sum of \$3,500.00 plus \$50.00 for the filing fee. The landlord also seeks an Order of Possession.

Analysis

The tenant did not appear at the hearing, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that the landlord is entitled to recover rent arrears for April, May, June, July, August, September and October, 2010 of **\$3,500.00** pursuant to s.67 of the *Act*. I have allowed the landlords' amended claim for October, 2010 as the tenant continues to reside at the rental unit and would be aware that rent was due for this month.

As the landlord has been successful in this matter, she is also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlord will receive a monetary order for the balance owing as follows:

Outstanding rent from April to October, 2010	\$3,500.00
Total amount due to the landlord	3,550.00

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to s. 88 of the *Residential Tenancy Act*. 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 pay the



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outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under s. 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession pursuant to s.55 of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$3,550.00**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days** after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme 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*.

Dated: October 29, 2010.

Dispute Resolution Officer