



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      FF, MNDC, MNR, MNSD, OPR

### Introduction

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

This is a request for a monetary order for \$4500.00, a request for an Order of Possession, and a request that the respondent's bear the \$50.00 cost of the filing fee.

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application. For claims to be combined on an application they must related.

Not all the claims on this application are sufficiently related to the main issues, to be dealt with together.

I therefore will deal with the request for an Order of Possession and outstanding rent and I dismiss the remaining damages claim with liberty to re-apply.

## Background and Evidence

The landlord testified that:

- On October 14, 2010 the tenant was served with a 10 day Notice to End Tenancy for non-payment of the October 2010 rent.
- The tenant did not pay that rent within the five day grace period, and in fact it was not paid until November 8, 2010.
- The October 2010 rent that was received on November 8, 2010 was accepted for use and occupancy only.
- The November 2010 rent is still outstanding.

The tenant testified that:

- The reason the rent was not paid is because his roommate did not pay him.
- His roommate has now moved out but he would like to stay in the rental unit and is able to make payments to catch up on the rent as follows:
  - December 3, 2010 - \$1000.00 for November 2010 rent
  - December 17, 2010 - \$1000.00 for December 2010 rent
  - January 1, 2010 - \$1000.00 for January 2010 rent paid on time

In response to the tenants request the landlord stated:

- The tenant has made many promises in the past and therefore they find it difficult to trust his word.
- They would still therefore requested an Order of Possession be issued, however if the tenant makes the payments on the dates specified above they will not enforce the Order of Possession and will allow him to stay.
- They also request an order for the outstanding November 2010 rent and the filing fee.



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## Analysis

The landlords served a proper Notice to End Tenancy for non-payment of rent, and the tenant did not pay that rent within the five day grace period and therefore since any monies received since have been accepted for use and occupancy only the landlord does have the right to an Order of Possession.

The tenant has also admitted that November 2010 rent, in the amount of \$1000.00, is presently outstanding and therefore I will issue an order for the outstanding rent.

I also allow the landlords request for an order for the filing fee

I make no order regarding the security deposit at this time, because the tenancy may continue and therefore the security deposit would remain in place.

## Conclusion

I have issued an Order of Possession to the landlord that is enforceable two days after service on the tenants and I have issued a monetary order in the amount of \$1050.00.

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: November 29, 2010.

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Dispute Resolution Officer