



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** *OPR, OPC, CNR, MNR, OLC, LRE, FF*

### **Introduction,**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notice to end tenancy, to set conditions on the landlord's right to enter the rental unit, and for the landlord to comply with the *Act*. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

At the start of the hearing, the tenant informed me that she had found another rental unit and planned to move out on or before December 15, 2010. An order of possession will be granted to the landlord effective this date. Since the tenancy is ending the other portions of the tenant's application are moot and accordingly dismissed. Therefore this hearing only dealt with the landlord's application for a monetary order for rent owed for December and for the filing fee.

### **Issues to be decided**

Is the landlord entitled to a monetary order for unpaid rent and the filing fee?

### **Background and Evidence**

This tenancy started on October 15, 2010, for a fixed term of one year. Rent is \$750.00 due on the fifteenth day of each month. The tenant did not pay a security deposit.

The landlord stated that the tenant failed to pay rent that was due on November 15, 2010. On November 16, 2010; the landlord served the tenant with a ten day notice to end tenancy. The tenant filed an application to dispute the notice in a timely manner.

The tenant stated that she paid rent for the period of November 15 to December 15 on November 18, 2010.

The tenant filed a copy of a print out from "Cashmoney" that showed that she cashed a cheque and received funds in the amount of \$796.33 on November 16, 2010. The tenant stated that she used these funds to pay rent but did not receive a receipt from the landlord. The landlord stated that the tenant did not pay rent that was due on November 15, 2010. The landlord has applied for a monetary order in the amount of \$750.00 for unpaid rent plus \$50.00 for the filing fee.

### **Analysis**

As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The tenant stated that she paid rent while the landlord argued that the tenant failed to pay rent on November 15. The tenant did not file evidence to support her testimony. Based on the sworn testimony of the both parties, I prefer the landlord's evidence in respect of the claim. I find that the landlord has established a claim of \$750.00 for unpaid rent and \$50.00 for the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* in the amount of \$800.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective on or before 1:00 p.m. on December 15, 2010. I also grant the landlord a monetary order for **\$800.00**.

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: December 09, 2010.

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Dispute Resolution Officer