



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, FF

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in satisfaction of her claim.

Since the tenancy has not yet ended and the landlord has reported some cigarette smoke damage to the unit, the landlord agreed to make application for damage against the security deposit after the tenancy ends. Therefore, this hearing only dealt with the landlord's application for an order of possession and a monetary order for unpaid rent and the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

### **Background and Evidence**

The tenancy started in May 2010. The monthly rent is \$750.00 due in advance on the first of each month. The landlord stated that the tenant failed to pay rent for November 2010 and on November 14, 2010; the landlord served the tenant with a ten day notice to end tenancy. The tenant also failed to pay \$750.00 for December 2011 but paid rent for both months on December 22, 2010. The tenant also paid rent for January on January 05, 2011. The landlord issued receipts for use and occupancy only.



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The tenant stated that he withheld rent because the landlord failed to provide cable and internet services as agreed upon in the tenancy agreement. The tenant requested some more time to find another rental unit and both parties agreed upon the date of March 31, 2011 as the last day of the tenancy. The landlord is applying for an order of possession effective March 31, 2011 and \$50.00 for the filing fee.

## **Analysis**

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on December 02, 2010 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective March 31, 2011. The Order may be filed in the Supreme Court for enforcement.

Since the landlord has proven her case, she is also entitled to the recovery of the filing fee. I authorize the landlord to retain \$50.00 from the security deposit.

## **Conclusion**

I grant the landlord an order of possession effective on or before **1:00 p.m. on March 31, 2011**. The landlord may retain \$50.00 from the security deposit.

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: January 11, 2011.

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Residential Tenancy Branch