



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

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

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent, late fees and the filing fee.

The notice of hearing was served on the tenant by registered mail. The landlord filed a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was 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, late fees and the filing fee?

### **Background and Evidence**

The landlord testified that the tenancy started on October 01, 2010. The monthly rent is \$875.00 due in advance on the first of each month. A clause in the tenancy agreement states that the tenant must pay a late fee of \$20.00 for rent paid after the first of the month. The tenant failed to pay rent for December and on December 02, 2010 the landlord served the tenant with a ten day notice to end tenancy. The landlord served the notice on the tenant by posting it on the front door in the presence of a witness.

The landlord stated that the tenant did not pay rent and continues to occupy the rental unit. At the time of this hearing, the tenant owed the landlord rent for December 2010 and January 2011. The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$1,790.00 which consists of rent for two months plus the late fee of \$40.00 for two months.



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Page: 2

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## **Analysis**

Based on the undisputed sworn testimony of the landlord, 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 two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord has established a claim of \$1,790.00 for unpaid rent and late fees. Since the landlord has proven her case, I find that she is also entitled to the recovery of the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$1,840.00. 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 two days after service on the tenant and a monetary order in the amount of **\$1,840.00**.

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: January 13, 2011.

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Residential Tenancy Branch