



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **Decision**

### **Dispute Codes:**

MNR, OPR, MNSD, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on a Notice to End Tenancy for Unpaid Rent and a monetary order for \$6,935.00 for rent and utilities owed. Both parties appeared and gave testimony during the conference call.

### **Issue(s) to be Decided**

The landlord was seeking an Order of Possession and a monetary order claiming rental arrears and the issues to be determined based on the testimony and the evidence are:

- Whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent
- Whether or not the landlord is entitled to monetary compensation for rental arrears owed and loss of rent based on the 10-Day Notice to End Tenancy for Unpaid Rent .

### **Background and Evidence**

The tenancy began in June 2000 and the current rent was \$1,030.00. According to the landlord, under the tenancy agreement, the tenant was also required to pay 50% of all utilities. However, no copy of the tenancy agreement verifying this term was submitted into evidence by the landlord.

The landlord did submit into evidence an outline listing the amounts owed for each month and indicating the years for which utilities were owed. The landlord testified that the tenant had not paid \$640.00 rent owed for October 2010, \$1,030.00 rent owed for November 2010, \$1,030.00 rent owed for December 2010, and \$1,030.0 rent for January 2011.

In addition the landlord stated that the tenant defaulted on the utility charges of \$902.07 for 2009 and \$2,103.49 for 2010 and that, due to the tenant's failure to pay utilities,

these utility charges were added to the landlord's taxes. No utility invoices were placed in evidence to confirm the amounts. The total claim was for \$6,935.00.

The landlord testified that in November 2010, the tenant was served with a 10-Day Notice to End Tenancy for Unpaid Rent and Utilities. According to the landlord, the tenant did not pay the outstanding arrears within 5 days to cancel the Notice. However, no copy of the Ten Day Notice to End Tenancy for Unpaid Rent was submitted into evidence by the landlord.

## **Analysis**

Section 46 of the Act states that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. The Act also states that a notice under this section must comply with section 52 *[form and content of notice to end tenancy]*.

In this instance, I find that the landlord did not submit adequate evidence to support the Notice and did not provide any other evidentiary support to verify that the claimed arrears and utilities were owed to the landlord by the tenant.

Based on the evidence before me, I find that the landlord is not entitled to an Order of Possession nor a monetary order due to insufficient evidentiary support. Accordingly I find that the landlord's application must be dismissed.

## **Conclusion**

I hereby dismiss the landlord's application in its entirety without leave.

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 2011.

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Residential Tenancy Branch