



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only. The tenant did not attend.

The landlord testified that when he returned from the Residential Tenancy Branch to pick up the notice of hearing documents on February 4, 2011 he served the tenant in person with the notice of hearing.

Based on this testimony I accept that the tenant has been served sufficiently and in accordance with the *Residential Tenancy Act (Act)*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

### Background and Evidence

The landlord testified the tenancy began in May 2009 as a month to month tenancy for a monthly rent of \$900.00 due on the 1<sup>st</sup> of the month and that no security deposit was received.

The landlord testified that he served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent on January 24, 2011 by posting it on the door of the rental unit. The Notice is also dated January 24, 2011 with an effective vacancy date of February 3, 2011 and states the tenant had failed to pay rent that was due on January 1, 2010 in the amount of \$900.00.

The landlord testified the tenant did pay rent for January on February 5 or 6, 2011 in the amount of \$900.00 but has not yet paid rent for February 2011.

### Analysis

I have reviewed all evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on January 27, 2011 and the effective date of the notice is amended to February 8, 2011, pursuant to Section 53 of the *Act*. Despite the tenant's rent payment of February 5 or 6, 2011, I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days after receiving the 10 Day Notice, granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$950.00** comprised of \$900.00 rent owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: February 17, 2011.

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Residential Tenancy Branch