



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **Decision**

### **Dispute Codes:**

MNR, OPR, FF

### **Introduction**

This Application for Dispute Resolution by the landlord indicated that the landlord was seeking an Order of Possession based on a Ten-Day Notice to End Tenancy for Unpaid Rent posted on the door on January 20, 2011 and also seeking a monetary order for rental arrears owed.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered the tenant did not appear.

At the commencement of the hearing, the landlord advised that the tenant had vacated the suite and therefore the Order of Possession would not be required. Accordingly this portion of the application is withdrawn.

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

The landlord is seeking a monetary order claiming \$5,350.00 for rent and charges and \$50.00 for the cost of filing this application.

The issues to be determined based on the testimony and the evidence is whether the landlord is entitled to monetary compensation under section 67 of the *Act* for rental arrears owed.

### **Background and Evidence**

The landlord gave verbal testimony that a tenancy existed with the tenant named, and that the \$2,500.00 rent was not paid and arrears had accrued in the amount of \$5,350.00.

However, the landlord had not submitted into evidence a copy of the Notice to End Tenancy, a copy of the tenancy agreement, nor any accounting records of the tenant's rent payment history. The landlord testified that no evidence had been served on the tenant.

### **Analysis**

In regard to the landlord's application regarding the monetary claim, I find that I am unable to make a determination in the absence of key evidence that must be submitted and also must be served on the respondent. A monetary claim for rent is based on the Ten-Day Notice to End Tenancy, and the burden of proof is on the applicant claiming compensation to prove that the tenancy exists, that this debt exists and that the evidence upon which the landlord intended to rely was also served on the tenant.

### **Conclusion**

In light of the above, I find that this application cannot proceed under the circumstances and I make no findings on the merit of the application. The landlord's application is therefore dismissed with leave to reapply.

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 2011.

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Residential Tenancy Branch