



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute codes      OP MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on January 17, 2011 the tenant did not call in and did not participate in the hearing.

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

This tenancy began in January, 1995. The current rent is \$570.00 due in advance on the first day of each month. A security deposit of \$320.00 was paid by the tenant on or about January 1, 1995. On November 10, 2010 the tenant was served with a Notice to End Tenancy for non-payment of rent. The notice was given to the tenant's brother at the rental unit. The tenant has not paid the outstanding rent and did not file an application to dispute the Notice.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order and Security Deposit* - I find that the landlord is entitled to a monetary award of \$1,760.00, being rent for the months of November and December, 2010 and January, 2011 plus the \$50.00 filing fee for this application. I order that the landlord retain the deposit and interest of 386.08 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,373.92. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 27, 2011.

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