



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR MNR FF  
                             MNDC FF

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking an Order of Possession for unpaid rent, a Monetary Order for unpaid rent and to recover the cost of the filing fee from the Tenant for this application.

The Tenant filed seeking a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the cost of the filing fee.

Service of the hearing documents by the Landlord to the Tenant was done in accordance with section 89 of the Act, sent via registered mail on January 17, 2011. A copy of the Canada Post receipt was provided in the Landlord's evidence.

Service of the hearing documents from the Tenant to the Landlord was done in accordance with section 89 of the Act, as they were served personally by the Tenant's friends to the Landlord. The Landlord confirmed receipt of the Tenant's hearing documents.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence provided by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

### Issue(s) to be Decided

1. Has the Tenant breached the Act, regulation or tenancy agreement?
2. If so, has the Landlord proven entitlement to an Order of Possession and a Monetary Order as a result of that breach?

3. Does the Tenant's application meet the requirements of the Act?

Background and Evidence

The Landlord testified that the parties attended a dispute resolution hearing last week to hear her application of an early end of tenancy (ET) where she was awarded an Order of Possession. Therefore she was withdrawing her request for an Order of Possession in this application.

She confirmed she had entered into a verbal tenancy agreement with the Tenant effective November 1, 2010. Rent is payable on the first of each month in the amount of \$850.00. The Tenant and his roommate had paid a total of \$240.00 towards a security deposit in late October 2010. When the Tenant failed to pay his January 1, 2011 rent she issued a 10 Day Notice to End Tenancy which was posted to his door on January 5, 2011. At this point the Tenant has failed to pay January and February 2011 rent for an accumulated balance owing of \$1,700.00 for which she is seeking a monetary order.

The Tenant began his testimony claiming he did not receive the Notice to End Tenancy and then later confirmed he had received it. He confirmed the rent for January and February 2011 are not paid. When we began to review his application the Tenant became very angry and started to use foul language. I cautioned the Tenant to use appropriate behaviour but he continued. I pointed out to the Tenant that he has not completed his application correctly and there is no indication in his evidence to advise the Landlord the amount of his monetary claim. The Tenant began to calculate an amount out loud and stated he wanted \$800.00. The Tenant continued to be belligerent and then disconnected from the hearing.

Analysis

**Landlord's claim**

I have carefully considered the testimony and evidence before me which included among other things a copy of statements written by each participant and a copy of a 10 Day Notice to End Tenancy for unpaid rent dated January 5, 2011.

The Landlord claims for unpaid rent of \$1,700.00 which is comprised of \$850.00 for January 2011 plus \$850.00 for February 2011, pursuant to section 26 of the *Act* which stipulates a tenant must pay rent when it is due. I find that the Tenant has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. I find that the Landlord has met the burden of proof for her claim.

The Landlord has succeeded with her application; therefore I award recovery of the filing fee.

**Tenant's claim**

Section 59(2) of the Act provides that an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings.

After careful review of the Tenant's application and evidence there was no indication of the monetary amount the Tenant was seeking and therefore the application does not meet the requirements of section 59(2) of the Act. That being said the Landlord was not made aware of the details of the Tenant's claim prior to the hearing. As per the aforementioned I hereby dismiss the Tenant's application, with leave to reapply.

Conclusion

The Landlord's decision will be accompanied by a Monetary Order of **\$1,750.00** (\$1,700.00 rent + 50.00 filing fee). This Order must be served upon the Tenant and may be filed in Provincial Court and enforced as an Order of that Court.

The Tenant's application is HEREBY 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 09, 2011.

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Residential Tenancy Branch