



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on January 27, 2011, the Tenant did not appear.

The Landlord's Agent appeared, gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and make submissions to me.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

### Background and Evidence

This tenancy began on March 1, 2007, and continues now on a month to month basis. Monthly rent is \$729.00 and a security deposit of \$329.00 was paid on February 13, 2007.

The Landlord's Agent gave affirmed testimony and supplied evidence that the Tenant was served with a 1 Month Notice to End Tenancy for Unpaid Rent (the "Notice") on November 6, 2010, by posting on the door. The Notice stated the amount of unpaid rent was \$750.00.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the Tenant had five days to dispute the Notice.

The Tenant did not apply to dispute the Notice. The Landlord provided evidence and gave affirmed testimony that the Tenant made partial payments of rent since the issuance of the Notice, and currently owes the amount of \$866.00, which includes a late fee of \$25.00 for February 2011. The Landlord supplied evidence that the Tenant was issued receipts for the partial rent payments on a "For Use and Occupancy Only" basis.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

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.

I find that the Landlord has established a total monetary claim of **\$916.00** comprised of outstanding rent of **\$866.00** and the **\$50.00** fee paid by the Landlord for this application.

I allow the Landlord to retain the deposit and interest of \$338.35 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$577.65**.

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

### Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an Order of Possession, may keep the security deposit and interest in partial satisfaction of the claim and is granted a monetary order for the balance due of **\$577.65**.

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