



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, FF

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his monetary claim.

The notice of hearing was served on the tenant on February 25, 2011, in person. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent, the filing fee and to retain the security deposit?

### **Background and Evidence**

The tenancy started on October 01, 2010. The monthly rent is \$900.00 and does not include utilities. The tenant paid a security deposit of \$450.00.

The tenant failed to pay full rent, starting October 2010. The landlord stated that he gave her several chances to catch up on rent. The tenant owes \$300.00 for October 2010, \$100.00 for December 2010 and \$175.00 for January 2011 for a total of \$575.00. In addition the tenant failed to pay rent for February.

The landlord is also claiming unpaid utilities in the amount of \$1,300.00 since the start of the tenancy. The landlord did not file any utility bills.

The tenant moved out on March 04, 2011 but left several of her belongings behind in the unit. The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$1,525.00 which consists of rental arrears (\$1,475.00) and the filing fee (\$50.00).

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on February 11, 2011 and did not pay full rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to \$1,475.00 for unpaid rent. The landlord has not filed any evidence to support his claim for utilities in the amount of \$1,300.00. Therefore this portion of his claim is dismissed. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$50.00.

I order that the landlord retain the security deposit of \$450.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1,075.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant and a monetary order in the amount of **\$1,075.00**.

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: March 09, 2011.

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Residential Tenancy Branch