



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MNR, MNDC, MNSD, OPR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Two Agents for the Landlord appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent on February 22, 2011, and deemed served five days later under the Act, the Tenant did not appear. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### 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

Based on the affirmed testimony and submissions of the Agents for the Landlord, I find that the Tenant was personally served on February 2, 2011, with a Notice to End Tenancy for non-payment of rent.

The Tenant has not paid all the outstanding rent for February 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. However, the Tenant vacated the rental unit on February 28, 2011.

### Analysis

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

The Tenant has breached the Act and the tenancy agreement by failing to pay all the rent due for February 2011.

Although the Landlord is entitled to an order of possession in these circumstances, the Tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant has failed to pay rent under the Act and tenancy agreement.

I find the Landlord has established a total monetary claim of **\$430.00** comprised of the balance of rent owed for February 2011, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$375.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$55.00**

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

The Landlord has leave to apply for further monetary orders.

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 07, 2011.

---

Residential Tenancy Branch