



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MNSD, 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 for unpaid rent and money owed or compensation for loss, an order to retain the security deposit in partial satisfaction of the claim, and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing on March 21, 2011, the Tenant did not appear. The Landlord provided evidence of the service of the Notice of Hearing by registered mail to the Tenant's residence and I was satisfied that the Tenant was served in accordance with Section 89 of the Residential Tenancy Act (the "Act").

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

At the outset of the hearing, the Landlord's Agent testified that the Tenant and other occupants had vacated the rental unit at the end of March 2011. However, out of an abundance of caution, the issue of the order of possession was still addressed.

### Issue(s) to be Decided

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

### Background and Evidence

This eight month fixed term tenancy began on April 1, 2010, to end on November 30, 2010, and monthly rent began at \$1,500.00. The Landlord supplied evidence that the parties, at the end of the fixed term, extended the tenancy with the Tenant to pay monthly rent of \$1,175.00 for December 2010, through March 31, 2011, and monthly rent of \$1,550.00 for April and May, 2011.

Based on the testimony of the Landlord's Agent, I find that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent by the Landlord on March 3, 2011, by registered mail. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The amount of unpaid rent listed on the Notice was \$1,825.00 as of March 1, 2011, and the Landlord's Agent stated that the Tenant failed to make any payments since issuance of the Notice.

I have no evidence before me that the Tenant disputed the Notice.

The Landlord's Agent testified that the Tenant damaged the toilet by dropping a hammer in the bowl and incurred damage in the amount of \$494.84, which remains unpaid. In support of this claim, the Landlord supplied an email from the Tenant acknowledging responsibility and the plumber's receipt.

In addition to the unpaid rent listed on the Notice, the Landlord is also seeking rent for the month of April due to the Tenant suddenly vacating the rental unit at the end of March, 2011.

### Analysis

Based on the 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 **\$3,919.84**, comprised of unpaid rent of \$1,825.00 listed on the Notice, loss of rent for April of \$1,550.00, toilet damage of \$494.84 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the security deposit of \$750.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$3,169.84.**

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

Conclusion

The Landlord is granted an Order of Possession, may keep the security deposit in partial satisfaction of the claim and is granted a monetary order for \$3,169.84.

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: April 19, 2011.

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Residential Tenancy Branch