



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNR, MNSD, OPR

### Introduction

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by personal service on June 23, 2011, but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is a request for an Order of Possession based on a Notice to End Tenancy for non-payment her rent, a request for a monetary order for \$2269.00, and a request for recovery of the \$50.00 filing fee. The applicant also requested an order to keep the security deposit as partial satisfaction of this claim.

### Background and Evidence

The applicant testified that:

- The tenant failed to pay the rent for June 2011 and therefore on June 6 was served with a 10 day Notice to End Tenancy.

- The tenant did not pay the outstanding rent within the five day grace period, and therefore on June 21, 2011 they applied for dispute resolution.
- The tenant has subsequently paid the outstanding June 2011 rent, and the July 2011 rent, however it was accepted for use and occupancy only.

The applicants are therefore requesting an Order of Possession for July 31, 2011, and recovery of the filing fee. The monetary claim has been withdrawn as the full outstanding amount has been paid.

### Analysis

The tenant was served with a valid 10 day Notice to End Tenancy for non-payment of rent and since the rent was not paid within the five day grace period that notice is still a valid notice.

Therefore even though the landlord has now accepted payment for the outstanding amount for the month of June 2011, and money for July 2011, since it was accepted for use and occupancy only and it stated such on the receipt, the landlord has not reinstated the tenancy, and still has the right to an Order of Possession.

### Conclusion

I have issued an Order of Possession for 1:00 p.m. on July 31, 2011 and have ordered that the respondent bear the \$50.00 cost of the filing fee.

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: July 15, 2011.

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Residential Tenancy Branch