



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, MNDC, 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 her monetary claim.

The notice of hearing was served on the tenant on June 22, 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.

The landlord had applied for dispute resolution earlier this year and in a decision dated March 07, 2011, the landlord was awarded a monetary order. The security deposit was applied to the amount owed by the tenant to the landlord. Therefore, at this time, the landlord is not holding a security deposit and accordingly her application to retain it, is moot.

### **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 and the filing fee?

### **Background and Evidence**

The tenancy started on October 01, 2010. The monthly rent is \$1,200.00 and payable on the first of each month.

The tenant failed to pay full rent for May and owed \$100.00. On May 13, 2011, the landlord served the tenant with a ten day notice to end tenancy for non payment of rent. The tenant did not pay the balance of rent owed and continues to reside in the rental unit. At the time of the hearing, the tenant owed the landlord \$100.00 for May, \$500.00 for June and \$1,200.00 for July for a total of \$1,800.00.

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 \$1,850.00 which consists of rental arrears (\$1,800.00) 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 May 13, 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 \$1,800.00 for unpaid rent. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. 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 **\$1,850.00**.

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: July 14, 2011.

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Residential Tenancy Branch