



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenants in person on July 2<sup>nd</sup>, 2011. The tenants did not participate and the hearing proceeded in the tenants' absence.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of a single detached home. Pursuant to a written agreement, the month to month tenancy started on October 1<sup>st</sup>, 2010. The tenants consist of a single mother and her adult son. The rent was \$1000.00 per month and the tenants paid a security deposit of \$500.00.

The landlord testified that the mother has moved out of the rental unit but that the son continues to live there; the landlord said that the son is a crack user selling drugs out of the house, and that as a result both police and local by-law enforcement agencies are implicated. The landlord said he has not been successful in evicting the son and that in the meantime he is wrecking the property, and estimates approximately \$10,000 to \$15,000 worth of damages to date.

The landlord's monetary claim is as follows:

- Unpaid rent for May 2011: \$ 495.00
- Unpaid rent for June 2011: \$1000.00
- Unpaid rent for July 2011: \$1000.00
- Loss of rental income for August: \$1000.00
- Total: \$3495.00

In his documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy he served on the tenants June 2<sup>nd</sup>, 2011, with an effective date of June 12<sup>th</sup>, 2011.

### Analysis

I accept the landlord's undisputed testimony that he served the tenants with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenants knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenants in this matter have not paid rent or filed an

application for dispute resolution. Therefore I find the landlord had grounds to issue the notice to end tenancy and that he is entitled to an order of possession.

I also accept the landlord's oral testimony concerning the tenants' non-payment of rent, and that the landlord is entitled to a monetary order for unpaid rent as claimed.

### Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant. This Order must be served on the tenants. If necessary, this Order may be registered in the Small Claims Court and enforced as an order of that Court.

The landlord established a claim of \$3495.00. I authorize the landlord to retain the tenants' \$500.00 security and pet damage deposit for a balance owing of \$2995.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$3045.00.

This Order may be registered in the Small Claims Court and enforced as an Order of that Court.

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 29, 2011.

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Residential Tenancy Branch