



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, OPR, FF

### Introduction

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

An Agent for the Landlord appeared, gave affirmed testimony and was 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 August 22, 2011, and deemed to be received 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 of the Agent for the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on August 8, 2011. The Agent testified that the Tenant failed to pay rent following service of the Notice. The Agent testified the Tenant did not pay rent in the amount of \$800.00 per month, for each of July, August and September 2011.

The Tenant did not apply to dispute the Notice.

The Agent for the Landlord testified that the Tenant vacated the rental unit sometime during the Labour Day long weekend of 2011, without any Notice to the Landlord.

Analysis

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

I find the Tenant breached the Act and tenancy agreement by failing to pay rent when due. By failing to pay rent or file an Application to dispute the Notice, the Tenant is conclusively presumed under section 46 of the Act to have accepted the end of the tenancy. Although the Landlord is entitled to an order of possession in these circumstances, the Tenant vacated the rental unit and therefore, an order of possession is no longer required.

I allow the Landlord to amend the Application to include a request for the filing fee for the Application.

I find the Landlord has established a total monetary claim of **\$2,450.00** comprised of \$2,400.00 in rent owed for July, August and September, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord may retain the deposit of **\$100.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,350.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: September 21, 2011.

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Residential Tenancy Branch