



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and the tenant.

The landlord's Application named two respondents (one male and one female), however as only one of the parties is named on the tenancy agreement I amend the landlord's Application to name the female tenant only.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted the following relevant documents into evidence:

- A copy of a tenancy agreement signed by the parties on March 11, 2011 for a 12 month fixed term tenancy beginning on March 15, 2011 for a monthly rent amount of \$800.00 due on the 15<sup>th</sup> of each month and a security deposit of \$400.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on August 31, 2011 with an effective vacancy date of September 10, 2011 for unpaid rent in the amount of \$900.00.

The landlord testified that last time she received any rent on behalf of this tenant was on or before July 23, 2011. The landlord also testified that because the tenant's rent is paid directly to the landlord from the Ministry of Social Development (MSD) the rent comes in near the monthly cheque issue day and that is payment for the following months rent that is due on the 15<sup>th</sup> of each month.

The tenant testified that the ministry has held her rent back from payment to the landlord as a result of this dispute with the landlord and as such MSD has not provided the landlord with the payment due on September 15, 2011.

The landlord and tenant are also disputing whether or not the landlord can increase the rent on the unit for additional occupants. The landlord has imposed a \$100.00 rent increase effective with August rent and the tenant does not believe the landlord can do this so believes her rent is still \$800.00 per month.

### Analysis

As per the landlord's testimony I find that at the time the 10 Day Notice was issued the landlord had received \$800.00 from MSD to cover the tenant's rental payment. Regardless of whether or not the landlord is entitled to increase the amount of rent for increased occupants, the landlord had received, nonetheless \$800.00 towards rent.

As such, the 10 Day Notice issued by the landlord in the amount of \$900.00 owing for the rent due on August 15, 2011 is incorrect rendering the 10 Day Notice invalid. I dismiss this portion of the landlord's Application without leave to reapply.

Further as the parties still dispute how much rent is required for tenancy based on increased occupancy and as that matter is not before me in this Application, I find I am unable to determine the value of the rent owed at this time. I dismiss this portion of the landlord's Application with leave to reapply.

### Conclusion

For the reasons noted above, I dismiss the landlord's Application in its entirety.

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: October 11, 2011.

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Residential Tenancy Branch