



# Dispute Resolution Services

Page: 1

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.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

### 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

Pursuant to a written agreement, the month to month tenancy started on May 1<sup>st</sup>, 2011. The rent was \$750.00 per month and the tenant did not pay a security deposit.

In her documentary evidence, the landlord advised that the tenant was a live-in caretaker, and that he did not pay for September's rent. The landlord provided a copy of the 10 Day Notice to End tenancy served on the tenant by posting the notice on the tenant's door on September 15<sup>th</sup>, 2011, with an effective date of September 28<sup>th</sup>, 2011.

The landlord testified that the tenant left at the end of September 2011, however rent for that month is still not paid.

The tenant confirmed that he was the live-in caretaker. He stated that rent was normally \$1500.00 per month, but that as caretaker it was reduced to \$750.00. He stated that under the Employment Standards Act the landlord entered into a contract with him in bad faith. He stated that he did not pay rent for September 2011 because the landlord ought to have paid him, and that he should have received an actual wage.

### Analysis

Since the tenant has moved out of the unit, the landlord's application for an order of possession is dismissed.

I have no authority to make a decision under the Employment Standards Act, and the parties' terms of employment under that legislation do not apply under this legislation. Section 26(1) of the Residential Tenancy Act specifies in part that a tenant must pay the rent when it is due under the tenancy agreement whether or not the landlord complies with the Act.

Based on the documentary evidence and the parties' testimony, I find that the tenant did not pay rent for September 2011 and that the landlord is entitled to a monetary order to recover the loss of rental income for that month.

### Conclusion

The landlord established a claim of \$750.00. Since she was successful, the landlord is entitled to recover the filing fee and pursuant to Section 67 of the Act, I grant the landlord a monetary order for the sum of \$800.00.

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: October 25, 2011.

---

Residential Tenancy Branch