



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR

### Introduction

This hearing dealt with an application by the Landlord for an order of possession, and a monetary order for unpaid rent.

The Landlord provided affirmed testimony that he personally served the Tenant at the rental unit with the Application for Dispute Resolution and Notice of Hearing on October 06, 2011 by handing it to the Tenant at 3:00 P.M. I find that the Tenant was served the Application and Notice of Hearing in accordance with section 88 of the Residential Tenancy Act (the "Act").

The Tenant did not participate in the conference call hearing. The Landlord was given 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 for unpaid rent?

### Background and Evidence

The Landlord provided a copy of the tenancy agreement signed by the parties into evidence in advance of the hearing. The tenancy began on February 23, 2011. At the outset of the tenancy, the Landlord collected a security deposit from the tenant in the amount of \$212.50. The tenancy agreement states that visiting hours for guests are from 10:00 AM to 8:00 PM., and that the rental unit is not to be used for prostitution, sale or distribution of drugs, or guests to use drugs. The Landlord testified that the rent is due on the 31<sup>st</sup> of each month.

The Landlord stated that the Tenant has had difficulty paying his rent each month and the Landlord had to contact the Ministry of Social Development starting July 2011 to obtain rent for the rental unit. The Landlord stated that the reason for ending the tenancy is for cause rather than for non-payment of rent. On the 1 Month Notice to End

Tenancy for Cause, the Landlord stated that the Tenant has allowed an unreasonable number of occupants in the unit, seriously jeopardized the health or safety or lawful right of another occupant or the Landlord, and put the Landlord's property at risk. The Landlord testified that the Tenant has provided the keys to the building and his rental unit to a prostitute, allowed drug dealers access to the building, and allowed guests into the building and his rental unit who have caused disruption to the other tenants after 8:00 PM in the evening. The Landlord stated that he has received complaints from the other tenants and has had to call the police to the building because the Tenant and his guests have affected the safety and security of the building and the other tenants.

The Landlord stated that he personally served the Tenant on July 29, 2011 at the rental unit with the 1 Month Notice to End Tenancy for Cause, the date of issuance on the Notice is the same day as the service date. The Notice stated that the Tenant must move out of the rental unit by August 31, 2011.

The Landlord stated that the Tenant refused to move out and has remained in the rental unit. The Landlord stated that he has continued to make it clear to the Tenant that he must vacate the building however the Tenant refuses. The Landlord filed the Application for Dispute Resolution after the Tenant did not move out of the rental unit by August 31, 2011, as specified in the Notice.

The Landlord testified that although the Tenant refused to leave the rental unit, he also did not pay rent for September and October 2011. The Landlord stated that he eventually received partial payment of the rental income he is owed, directly from Ministry of Social Development, and that the last payment he received was in mid-October. Accordingly, the Landlord has reduced his monetary claim against the Tenant and stated he is claiming \$100.00 for outstanding rental income, which represents \$50.00 for September and \$50.00 October 2011. The Landlord stated that he is not claiming rent for November 2011. The Landlord's total monetary claim against the Tenant for non-payment of rent is \$100.00.

The Landlord is requesting an order of possession on the rental unit.

### Analysis

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

I find that the Tenant was properly served with the 1 Month Notice to End Tenancy for Cause. I find that the Notice was personally served on the Tenant on July 29, 2011, thus service was effective the same date. I find that the move-out date stated on the

Notice is correct and the Tenant was required to vacate the rental unit on or before August 31, 2011. I also find that the Landlord has remained clear in his intent to have the Tenant vacate the premises. The Tenant did not file an Application to dispute the 1 Month Notice within 10 Days as specified by the Notice.

Based on the above facts, I find that the Tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on August 31, 2011, which is one month after the Notice was deemed to have been served. Therefore, I find that the Landlord is entitled to an order of possession.

I find that the Landlord has established a claim for \$100.00 in unpaid rental income for September and October 2011 and is entitled to a monetary order for this amount.

As the Landlord did not claim a filing fee, none is awarded.

### Conclusion

I find that the Landlord is entitled to an Order of possession effective **two days after service** on the Tenant. This Order must be served on the Tenant and may be filed in the Supreme Court.

I grant the Landlord a monetary order under section 67 for \$100.00 for unpaid rental income for September and October 2011. This Order must be served on the Tenant and may be filed in the Provincial Court (Small Claims).

The Orders accompany the Landlord's copy of this decision.

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: November 03, 2011.

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Residential Tenancy Branch