



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF OPR MNR

### Introduction

This hearing dealt with an application by the landlord for an order for possession and a monetary order. The landlord also requested recovery of the filing fee. Both parties attended the hearing and had an opportunity to be heard.

### Issues

Is the landlord entitled to the requested orders?

### Background and Evidence

This tenancy began on December 1, 2008. The rent is \$760.00 due in advance on the first day of each month. On August 5, 2011 the tenant was served with a Notice to End Tenancy for non-payment of rent. The tenant has not paid the outstanding rent and did not file an application to dispute the Notice.

The tenant has not paid any rent for August, September and October. Ms. Cragg testified that the tenancy agreement stipulates a \$25.00 charge for all NSF cheques and a \$20.00 fee for all late payments of rent.

### Analysis

With respect to the landlord's request for an order of possession, Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice and the landlord is entitled to an order of possession.

With respect the landlord's claim for a monetary order, the tenant did not dispute the amount claimed by the landlord and I am therefore satisfied that the landlord has established its monetary claim in the total amount of \$2,415.00.

Conclusion

I find that the landlord is entitled to an order for possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of \$2,415.00 comprised of unpaid rent in the amount of \$760.00 for each of August, September and October, a \$25.00 NSF fee for each of the above months and a \$20.00 late fee for each of the above months. I also find that the landlord is entitled to recover the \$50.00 filing fee for this application. Accordingly, I order the tenant to pay to the landlord the sum of \$2,465.00. This order may be filed 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*.