



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *OPR, MNR, MNSD, MNDC, CNR, LRE, FF*

### **Introduction,**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent, the filing fee and to retain the security deposit. The tenant applied for an order to set aside the notice to end tenancy, for the cost of emergency repairs, to suspend or set conditions on the landlord's right to enter the rental unit and for the return of her security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside? Is the landlord entitled to a monetary order for unpaid rent and the filing fee? Is the tenant entitled to the cost of emergency repairs?

### **Background and Evidence**

The landlord and tenant entered into a tenancy agreement on April 01, 2011. The rent is \$600.00 per month due on the first of each month. The tenant paid a security deposit of \$300.00 and a pet deposit of \$300.00.

The tenant agreed that she did not pay rent for October and November. On October 13, 2011, the landlord served the tenant with a ten day notice to end tenancy for non payment of rent. The tenant stated that the landlord knocked on the front door several times, entered her rental unit and walked into the bedroom to hand deliver the notice to end tenancy. The tenant also stated that the landlord did not provide any notice to enter the unit.

The landlord agreed that he did not provide notice to enter, but stated that upon knocking he heard the tenant ask him to enter and that is why he did so. The tenant has applied for an order to set conditions on the landlord's right to enter the unit.

The tenant also stated that she fixed a leaky faucet after the landlord failed to do so. The landlord stated that he was not notified of the leaky faucet. The tenant added that she had mice in the unit and informed the landlord about the problem. The landlord advised her to store her pet food in a sealed container and proceeded to set traps and bait in the basement of the rental unit. The landlord stated that when he last visited, both traps and bait were undisturbed. The tenant has filed receipts from April and August 2011 for the purchase of mouse traps and faucet washers. The tenant has not specified the quantum of her claim for these items.

The landlord has applied for rent for the months of October (\$600.00) and November (\$600.00) and for the filing fee (\$50.00) and for an order of possession effective two days after service on the tenant.

### **Analysis**

Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent or dispute the notice by making application for dispute resolution. If the tenant does not pay rent or dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date.

The tenant received the notice to end tenancy for unpaid rent, on October 13, 2011 and did not pay rent within five days of receiving the notice to end tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2), I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord has established a claim of \$1,200.00 for unpaid rent and \$50.00 for the filing fee for a total of \$1,250.00. I order that the landlord retain the security deposit of \$300.00 plus the pet deposit of \$300.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$650.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenant has not proven that the landlord was negligent with regard to addressing the mouse problem. Therefore the tenant's claim to be reimbursed for traps is dismissed. Since the tenancy is ending, the tenant's application for an order to set conditions on the landlord's right to enter the rental unit is moot and accordingly dismissed.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant. I also grant the landlord a monetary order in the amount of **\$650.00**.

The tenant's application is dismissed 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: November 09, 2011.

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Residential Tenancy Branch