



# 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 an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent and the filing fee.

The notice of hearing was served on the tenant on October 24, 2011 by the landlord in person, in the presence of a witness. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

### **Background and Evidence**

The landlord testified that the tenancy started on May 01, 2010. The monthly rent is \$1,000.00 due in advance on the first of each month. The tenant owed \$275.00 for July and failed to pay rent for August, September, October and November.

The landlord testified that she had served him a notice to end tenancy in September and had applied for an order of possession, but failed to attend the hearing. She also stated that the tenant repeatedly promised her that he would pay rent but failed to keep his promises. On October 10, 2011, the landlord served the tenant with a ten day notice to end tenancy. This notice was served on the tenant in person in the presence of a witness.

The landlord stated that the tenant did not pay rent for October and continues to occupy the rental unit. At the time of this hearing, the tenant owed the landlord rent for multiple months.

The landlord has applied for an order of possession effective two days after serving it on the tenant and for a monetary order in the amount of \$4,325.00 which consists of rent for July (\$275.00), rent for August to November (\$4,000.00) plus the filing fee (\$50.00).

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on October 10, 2011 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential 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 \$4,275.00 for unpaid rent. Since the landlord has proven her case, I find that she is also entitled to the recovery of the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$4,325.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant and a monetary order in the amount of **\$4,325.00**.

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 16, 2011.

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Residential Tenancy Branch