



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord provided a registered mail receipt and tracking number as evidence the tenant was served with the hearing documents by registered mail sent to the rental unit on November 5, 2011. The landlord testified that a search of the tracking number showed the registered mail was successfully delivered. I was satisfied the tenant has been notified of this hearing and I proceeded to hear from the landlord without the tenant present.

### Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent?

### Background and Evidence

The tenancy commenced over 20 years ago and there is no written tenancy agreement. The tenant is currently required to pay rent of \$572.00 on the 1<sup>st</sup> day of every month. The tenant failed to pay \$423.00 of the rent owed for March 2011 did not pay rent for April, May, June or July 2011. On July 13, 2011 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) indicating the tenant owed \$3,822.00 in rent as of July 1, 2011. The Notice had a stated vacancy date of July 24, 2011. The tenant did not pay the outstanding rent or dispute the Notice. The tenant has not paid any monies since the Notice was issued with the exception of \$600.00 paid on November 16, 2011.

The landlord explained that this Application for Dispute Resolution was not filed until November 4, 2011 as there was a change in ownership of the property and the landlord was affording the tenant more time to make payment due to the length of his tenancy.

The landlord submitted that the tenant owed more than \$5,000.00 in unpaid rent at the time of making this application; however, the landlord limited the claim to \$5,000.00.

The landlord indicated that there is a willingness to work with the tenant to keep this tenancy going if the tenant would start paying rent regularly. However, in the event the tenant does not pay rent the landlord needs to obtain the necessary documents to enforce their rights.

### Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on July 24, 2011 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Based upon the Notice and the landlord's undisputed testimony, I find the landlord has established an entitlement to recover unpaid rent \$5,000.00 as claimed on November 4, 2011. I also award recovery of the filing fee. In recognition of the \$600.00 payment made by the tenant November 16, 2011, I provide the landlord with a Monetary Order in the amount of \$4,450.00 [\$5,000.00 + 50.00 filing fee – 600.00 payment]. The landlord must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

### Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been provided a Monetary Order in the amount of \$4,450.00 to serve upon the tenant.

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 24, 2011.

---

Residential Tenancy Branch