



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

MNR, MNSD, MNDC, OPC, FF

### **Introduction**

This Application for Dispute Resolution by the landlord indicated that the landlord was seeking an Order of Possession based on a One Month Notice to End Tenancy for Cause posted on the door on November 18, 2011 and also seeking a monetary order for rental arrears owed.

Although served with the Application for Dispute Resolution and Notice of Hearing in person and by registered mail the tenant did not appear.

### **Issue(s) to be Decided**

The issues to be determined based on the testimony and the evidence is whether the landlord is entitled to monetary compensation under section 67 of the *Act* for rental arrears owed and an Order of Possession based on a One Month Notice to End Tenancy for Cause.

### **Background and Evidence**

The landlord gave verbal testimony that a tenancy existed with the tenant named, and that the tenant had been repeatedly late paying rent and in fact owed unpaid rental arrears at the present time.

However, the landlord had not submitted into evidence a copy of the One-Month Notice to End Tenancy upon which the application was based, nor did the landlord submit any other evidence to support an order of possession or the monetary claim. The landlord testified that she was told by a Residential Tenancy Branch information officer that it was not necessary to submit a copy of the One Month Notice to End Tenancy for Cause to the file prior to the hearing.

### **Analysis**

I find that, granting an Order of Possession must be based on the One Month Notice to End Tenancy for Cause and the burden of proof is on the applicant to prove that the Notice is valid and was served on the tenant, and to provide all of the evidence upon which the landlord intends to rely.

I find that the material given to the applicant contains detailed information and instructions. Under the heading, “*GENERAL INFORMATION about your responsibility and the hearing*” the Notice states:

*“Evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. Instructions are included in this package. Deadlines are critical.”*

The instructions go on to state that Residential Tenancy Branch Rules of Procedure apply to the proceedings and refers participants to contact the Residential Tenancy Branch and also gives the website address.

With respect to the landlord's request for an Order of Possession and monetary claim, I find that I am unable to make a determination in the absence of key evidence that must be submitted 5 days prior to the hearing in accordance with the Act and Rules of Procedure.

### **Conclusion**

In light of the above, I find that this application cannot proceed under the circumstances and I make no findings on the merit of the application. The landlord's application is therefore dismissed with leave to reapply.

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: December 14, 2011.

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Residential Tenancy Branch