



# 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 was convened in response to applications by the tenant and the landlord.

The tenant's application is seeking orders as follows:

Cancel a notice to end tenancy for unpaid rent?  
Cancel a notice to end tenancy for cause?

The landlord's application is seeking orders as follows:

An order of possession for unpaid rent?  
An order of possession for cause?  
A monetary order for unpaid rent?

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant and landlord indicated several matters of dispute on their Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy for unpaid rent. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the Notice to End Tenancy for unpaid rent and landlord's application for an order of possession for unpaid rent and a monetary order for unpaid rent.

### Issue(s) to be Decided

Should the notice to end tenancy for unpaid rent be cancelled?  
Is the landlord entitled to an order of possession for unpaid rent?  
Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The tenancy commenced on May 1, 2011. Rent in the amount of \$1050.00 was payable on the 31st day of each month. The tenant paid a security deposit of \$525.00 and a pet deposit of \$50.00.

The landlord testified that the tenant failed to pay rent owed for January 2012 and was served the ten day notice to end tenancy for unpaid rent, by posting on the door, on January 2, 2012. Section 90 of the Act deems the tenant was served on January 5, 2012.

The Notice states that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date on the notice. The tenant did apply to dispute the notice to end tenancy within five days from the date of service.

The tenant testified that she did not pay the landlord rent for January 2012, as she was served with a one month notice for cause.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The evidence of the tenant was that she did not pay rent for January 2012, because the landlord served her with a one month notice for cause.

Section 26 (1) states that a tenant must pay rent when it is due under the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of rent.

I find the tenant had no right under the Act to withhold rent for January 2012. Therefore, I dismiss the tenant's application to set aside and cancel the notice to end tenancy.

I find the landlord is entitled to an order of 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 monetary claim, and I grant the landlord an order under section 67 in the amount of **\$1,225.00** comprised of rent and utilities owed for January 2012, and the \$50.00 fee paid by the landlord for this application.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and this Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary order pursuant to section 67 in the amount of **\$1,225.00** comprised of rent and utilities owed.

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: January 17, 2012.

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