



# 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 for Dispute Resolution by the Landlord for an order of possession, a monetary order for unpaid rent and to recover the filing fee for the Application.

An Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent for the Landlord testified that the Tenant was served with the Application for Dispute Resolution and the Notice of Hearing by registered mail, sent on January 13, 2012, and deemed under the Act to be served five days later. Despite this the Tenant did not appear at the hearing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The Agent testified that the Tenant had vacated the rental unit on or about December 7, 2011, and therefore, I find an order of possession is no longer required.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to monetary relief?

### Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on December 2, 2011.

The Tenant did not pay all the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

The Tenant vacated the rental unit on December 7, 2011. The Tenant signed a condition inspection report document acknowledging the Landlord could keep his deposits and that he owed the Landlord money for cleaning the rental unit and for December rent.

The Landlord claims \$70.00 for carpet cleaning, \$40 for cleaning drapes, \$48.00 for general suite cleaning, \$997.00 for December rent, \$200.00 for liquidated damages and \$50.00 for the filing fee for the Application.

### Analysis

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

Although the Landlord is entitled to an order of possession in these circumstances, the Tenant vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant failed to pay rent under the Act and tenancy agreement. I further find the Tenant breached the Act by failing to return the rental unit in a clean state.

I find the Landlord have established a total monetary claim of **\$1,405.00** comprised of \$70.00 for carpet cleaning, \$40 for cleaning drapes, \$48.00 for general suite cleaning, \$997.00 for December rent, \$200.00 for liquidated damages and \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the security and parking deposits of **\$548.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$856.50**.

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

Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy, and vacated the rental unit. Therefore, an Order of Possession is not required.

The Landlord is granted a monetary order for rent and other charges agreed to by the Tenant and may keep the security and parking deposits in partial satisfaction of the claim. The Landlord has a monetary order against the Tenant for the balance due.

This decision is final and binding on the parties, except as provided under the Act, and 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 30, 2012.

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Residential Tenancy Branch