



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order authorizing him to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began in October 2010 at which time a \$237.50 security deposit was paid. The parties further agreed that the landlord was entitled to an order of possession effective February 1, 2012. At the hearing, the landlord withdrew his claim for loss of income for the month of February.

The landlord testified that the tenant had failed to pay the \$575.00 in rent which was due in the month of January 2012, which led to him serving her with a 10 day notice to end tenancy for unpaid rent. The tenant claimed that she paid the landlord in cash in the month of January but could not recall the date on which she made this payment. She claimed that she had bank records which would prove that she made this payment, but did not submit those records into evidence. The landlord denied having received a cash payment.

The landlord testified that the tenant's rent had previously been paid directly to the landlord by a government agency on her behalf, but in December she changed that practice and did not pay any rent for January. The parties agreed that the landlord had issued receipts for each rental payment received prior to January. The tenant argued that because the landlord had issued 2 receipts for the same payment in October, it proved that the landlord was careless in his record keeping and could easily have failed to issue a receipt for January.

### Analysis

As the parties agreed that the landlord is entitled to an order of possession, I grant that order, effective February 1, 2012. If the tenant fails to comply with the order, it may be filed in the Supreme Court and enforced as an order of that Court.

When a landlord alleges that a tenant has failed to pay rent, the burden rests with the tenant to prove that rent has in fact been paid. The tenant could not recall the date on which she had paid the landlord and although she claimed that she had documentation which would prove that she withdrew money to pay the landlord, she did not enter that documentation into evidence so it could be considered in this hearing. I do not accept that the tenant's assertion that because the landlord had issued 2 receipts for the same payment in October, his record keeping is inaccurate. Rather, that shows that the landlord was anxious to ensure that the tenant was given a receipt for each payment. Although the Act does not require receipts to be issued for payments made by cheque, the landlord has had the practice throughout the tenancy of issuing receipts for each payment. Having considered the evidence before me, I find it more likely than not that the tenant did not pay rent in the month of January.

I find that the landlord is entitled to recover the \$575.00 in unpaid rent as well as the \$50.00 filing fee paid to bring this application and I award him \$625.00. I order the landlord to retain the \$237.50 security deposit in partial satisfaction of the claim and I grant him a monetary order for the balance of \$387.50. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$387.50. The landlord may retain the security deposit.

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 31, 2012

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Residential Tenancy Branch