



# 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 by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent and the filing fee.

The notice of hearing was served on the tenant in person by the landlord on December 15, 2011. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

### **Background and Evidence**

The tenancy started in March 2010. The monthly rent is \$1,600.00 due in advance on the first of each month. The rental unit is a two level home.

The tenant and the landlord are coworkers. The landlord stated that the tenant paid rent for January 2011 and since then failed to pay any rent until he received a notice to end tenancy on December 05, 2011. The landlord stated that he allowed the tenant to continue living in the unit because the tenant promised to make payment.

In November 2011, the landlord took away the use of the lower level and reduced the rent to \$1,200.00 per month. The tenant applied for social assistance and made some payment towards the outstanding rent. The tenant also requested the landlord to allow him to stay until January 31, 2012. The landlord agreed and is applying for an order of possession effective that date.

At the time of the hearing the tenant owed rent for February 2011 to October 2011 at the rate of \$1,600.00 per month for a total of \$14,400.00.

The tenant owes rent for November 2011 to January 2012 at the rate of \$1,200.00 per month for a total of \$3,600.00. The landlord received \$1,400.00 for December and January from social services and therefore is owed \$2,200.00 for this period.

Overall, the tenant owes \$16,600.00 in unpaid rent. The landlord is also applying for the recovery of the filing fee of \$100.00.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on December 05, 2011 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective on or before 1:00 pm on January 31, 2012. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to his monetary claim. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$100.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$16,700.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective on or before **1:00 pm on January 31, 2012** and a monetary order in the amount of **\$16,700.00**.

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 03, 2012.

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Residential Tenancy Branch