



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, MNDC, 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, late fees and the filing fee.

The notice of hearing was served on the tenant on December 30, 2011, by registered mail. The landlord filed a tracking number. 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, late fees and the filing fee?

### **Background and Evidence**

The tenancy started on August 08, 2011. The monthly rent is \$750.00 due in advance on the first of each month. The landlord filed a copy of the tenancy agreement. A term in the agreement stipulates that a late fee of \$20.00 is applicable for rent paid after the first of each month.

The landlord testified that the tenant failed to pay rent for December 2011. On December 07, 2011, the landlord served the tenant with a ten day notice to end tenancy. On December 27, the tenant received assistance from social services in the amount of \$550.00 and paid this amount towards rent for December. The tenant owes the balance of \$200.00 for rent plus \$20.00 for late fee. The landlord issued a receipt for use and occupancy only.

The tenant received assistance for January but failed to pay the balance of rent. At the time of the hearing, the tenant owed rent plus late fees in the amount of \$200.00 for December 2011 and \$220.00 for January 2012.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$490.00 which consists of outstanding rent for December 2011 and January 2012 (\$400.00), late fees for two months (\$40.00) and the filing fee (\$50.00).

### **Analysis**

Based on the undisputed 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 07, 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 two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to her monetary claim. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$490.00. 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 two days after service on the tenant and a monetary order in the amount of **\$490.00**.

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 13, 2012.

---

Residential Tenancy Branch