



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on January 27, 2012, which was witnessed, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent 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.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on January 10, 2012, by posting the document to the door of the tenant's residence. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent testified that the tenant did not pay rent for December 2011, January 2012 and February 2012.

The landlord's agent testified on January 31, 2012, the tenant made a payment towards outstanding rent in the amount of \$310.00. The landlord's agent stated that they recently received a cheque from the Ministry of Social Services in the amount of \$510.00. However, there is an outstanding balance of \$710.00 in rent owed, and \$25.00 service fee that was charged by the bank for the tenant's returned cheque.

The landlord's agent further testified they did not reinstate tenancy and are seeking an order of possession and a monetary order for the balance of outstanding rent.

### Analysis

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

The tenant has not paid 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.

I find that 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 total monetary claim of \$785.00 comprised of rent owed, a \$25.00 bank service charge and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the deposit and interest of \$412.20 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$372.50.

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. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: February 15, 2012.

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Residential Tenancy Branch