



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

MNR, OPR, FF

### **Introduction**

This Application for Dispute Resolution by the landlord indicated that the landlord was seeking an Order of Possession based on a Ten-Day Notice to End Tenancy for Unpaid Rent and also seeking a monetary order for rental arrears owed.

Both parties appeared at the hearing.

### **Issue(s) to be Decided**

The issues to be determined based on the testimony and the evidence is whether the landlord is entitled to monetary compensation under section 67 of the *Act* for rental arrears owed and an Order of Possession.

### **Preliminary Issue**

The landlord gave verbal testimony that a tenancy existed with the tenant named, and that the \$400.00 rent was not paid and that a Ten Day Notice to End Tenancy for Unpaid Rent .

However, the landlord had not submitted into evidence a copy of the Notice to End Tenancy, a copy of the tenancy agreement, nor any accounting records of the tenant's rent payment history.

An Order of Possession and a monetary claim for rent is based on the Ten-Day Notice to End Tenancy, and the burden of proof is on the applicant claiming compensation to prove that the tenancy exists, that this debt exists and that the evidence upon which the landlord intended to rely was also served on the tenant.

I find that the material given to the applicant contains detailed information and instructions. Under the heading, "*GENERAL INFORMATION about your responsibility and the hearing*" the Notice states:

*“Evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. Instructions are included in this package. Deadlines are critical.”*

The instructions go on to state that Residential Tenancy Branch Rules of Procedure apply to the proceedings and refers participants to contact the Residential Tenancy Branch and also gives the website address.

With respect to the landlord's application for an Order of Possession and monetary claim, I find that I am unable to make a determination in the absence of key evidence that must be submitted and that also must be served on the respondent 5 days prior to the hearing in accordance with the Act and Rules of Procedure.

### **Conclusion**

In light of the above, I find that this application cannot proceed under the circumstances and I make no findings on the merit of the application. The landlord's application is therefore dismissed with leave to reapply.

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 28, 2012.

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Residential Tenancy Branch