



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on February 15, 2011. Rent in the amount of \$1,200.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$600.00. The Tenant failed to pay half the rent for the month of January 2012 and failed to pay any rent for

February 2012. On February 13, 2012 the Landlord served the Tenant with a notice to end tenancy for non-payment of rent (the "Notice"). The Tenant has not paid the outstanding rent, has not filed an application to dispute the Notice and did not discover until yesterday that the Tenant moved out of the unit by March 1, 2012. The Tenant did not inform the Landlord of the move-out date and did not return the parking pass, fob or keys to the unit. The Landlord states that an Order of Possession is no longer required as they now have possession of the unit and have cancelled the fob that the Tenant failed to return. The Landlord claims \$3,030.00 in rental arrears.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence and noting that an Order of Possession is no longer requested by the Landlord, I find that the Tenant has not paid the outstanding rent for January and February 2012 and that the Landlord is therefore entitled to **\$1,800.00** for these months. Further based on the Landlord's evidence that the Tenant moved out of the unit by March 1, 2012 but did not inform the Landlord or return the keys to the unit, I find that the Landlord has established a monetary claim for a reasonable portion of March rent of **\$600.00**. The Landlord is entitled to recovery of the **\$50.00** filing fee, for a total entitlement of **\$2,450.00**. Setting the **security deposit** plus interest of **\$600.00** off the monetary entitlement leaves the amount of **\$1,850.00** owing by the Tenant to the Landlord.

### Conclusion

**I order** that the Landlord retain the **deposit** and interest of \$600.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act

for the balance due of **\$1,850.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: March 6, 2012.

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Residential Tenancy Branch