



# 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 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 landlord also applied to retain the security deposit. Both parties attended the hearing and were 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, the filing fee and to retain the security deposit?

### **Background and Evidence**

The tenancy started on September 15, 2008. The monthly rent is \$1,100.00 due in advance on the first of each month. Prior to moving in, the tenant paid a security deposit of \$400.00. The landlord stated that the tenant failed to pay rent for several months and on January 07, 2012, the landlord served the tenant with a ten day notice to end tenancy.

The landlord stated that as of the date of the hearing, the tenant owed the \$820.00 for November 2011 and \$1,100.00 for each of the months from December 2011 to March 2012. The tenant agreed that he owed a total of \$5,220.00 in unpaid rent. The landlord is applying for an order of possession effective March 31, 2012 and a monetary order in the amount of \$5,220.00.

### **Analysis**

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on January 07, 2012 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 p.m. on March 31, 2012. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$5,220.00 for unpaid rent. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00 for a total of \$5,270.00. I order that the landlord retain the security deposit of \$400.00 and accrued interest of \$1.77 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$4,868.23. 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 p.m. on March 31, 2012 and a monetary order for **\$4,868.23**.

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 16, 2012.

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Residential Tenancy Branch