



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application 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. Both parties participated in the conference call hearing.

### Issues to be Decided

Is the landlord entitled to an order of possession?  
Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The facts are not in dispute. The tenant is obligated to pay \$1,300.00 each month in rent and failed to pay rent in the months of January, February and March 2012. On March 6, the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice").

The tenancy agreement specified that the rent included utilities. The landlord testified that the tenant has used natural gas excessively and seeks an order compelling the tenant to pay for utilities.

### Analysis

I find that the tenant was obligated to pay \$1,300.00 each month in rent and that she failed to pay rent in the months of January – March inclusive. I find that she received the Notice on March 6 and that she did not pay the arrears or file a claim to dispute the Notice within 5 days and is therefore conclusively presumed pursuant to 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 and I grant her an order which may be filed in the Supreme Court for enforcement.

I find that because the tenancy agreement had no provision whereby the tenant was responsible for utility payments, the landlord is not entitled to recover the cost of utilities. I dismiss the claim for utilities. I find that the landlord is entitled to recover the \$3,900.00 in rental arrears as well as the \$50.00 filing fee paid to bring her application. I grant the landlord a monetary order under section 67 for \$3,950.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The claim for the cost of utilities is dismissed. The landlord is granted an order of possession and a monetary order for \$3,950.00.

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: April 05, 2012

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Residential Tenancy Branch