



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and utilities, as well as authorization to retain the security deposit. The tenant did not appear at the hearing. The landlord provided a registered mail receipt, including tracking number, as proof the hearing documents were sent to the tenant. The landlord testified that the registered mail was sent to the tenant at the rental unit on April 12, 2012 and a search of the tracking number showed the registered mail was picked up on April 17, 2012. The landlord testified that he also slid a copy of the hearing documents under the door of the rental unit on April 12, 2012. The landlord confirmed that the tenant is still residing in the rental unit.

During the hearing the landlord requested the application be amended to reflect loss of rent for April and May 2012. Having been satisfied the landlord served the tenant with notice of this hearing, to deal with the matter of unpaid rent and utilities, and having heard the tenant is still occupying the rental unit, I have consider the landlord's request for amendment.

### Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent, loss of rent and utilities?
3. Is the landlord authorized to retain the security deposit?

### Background and Evidence

I heard the following undisputed testimony from the landlord: Under a verbal agreement the tenancy commenced in September 2011 and no security deposit was paid. The agreement was that the tenant would pay the landlord \$800.00 on the 1<sup>st</sup> day of every month for rent and utilities. The tenant failed to pay \$300.00 of the rent owed for January 2012. The tenant also failed to pay the rent and utilities of \$800.00 for February 2012 and on February 3, 2012 the landlord personally served the tenant with a

10 Day Notice to End Tenancy for Unpaid Rent. Despite the tenant's promises to catch up on the arrears no payment was received and then the tenant failed to pay rent for March 2012. The landlord issued another 10 Day Notice to End Tenancy for Unpaid Rent (herein referred to as "the Notice") on March 2, 2012 and personally gave it to the tenant. The Notice has a stated effective date of March 31, 2012 and indicates the tenant owed \$1,700.00 in rent. The tenant did not pay the outstanding rent or dispute the Notice. The tenant continues to reside in the rental unit.

I also heard that the landlord has been receiving notification letters from the strata corporation with respect to the tenant causing disturbances and damaging the strata property, with the most recent letter being dated April 2, 2012.

In filing this application, the landlord is seeking to recover \$1,700.00 for unpaid rent and utilities for January 2012 through March 2012. The landlord requested this monetary claim be amended to reflect loss of rent and utilities for April and May 2012.

Documentary evidence provided by the landlord for this proceeding included copies of the 10 Day Notices issued in February 2012 and March 2012 and the registered mail receipt.

### Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Since the tenant did not pay the outstanding rent or dispute the most recent Notice issued by the landlord I find the tenancy ended on the effective date, as indicated on the Notice, of March 31, 2012. I find the landlord is entitled to regain possession of the rental unit and provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord entitled to recover unpaid rent and utilities up to and including March 2012 in the amount of \$1,700.00. As the tenant was served with the hearing documents in April 2012 and the strata council issues letters concerning the tenant's behaviour in April 2012 I am satisfied the tenant was in occupation of the rental unit in April 2012 and I grant the landlord's request to recover loss of rent and utilities in the amount of

\$800.00 for April 2012. Given the date of this decision, and a lack of corroborating evidence the tenant has occupying the rental unit in May 2012 I dismiss the landlord's request for loss of rent for May 2012 with leave to reapply.

Since I heard the landlord did not collect a security deposit, I make no order with respect to its retention by the landlord.

As the landlord was successful with this application I award the landlord the filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

Unpaid rent and utilities for January – March 2012	\$ 1,700.00
Loss of rent and utilities for April 2012	800.00
Filing fee	<u>50.00</u>
Monetary Order	\$ 2,550.00

The landlord must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

### Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been provided a Monetary Order for unpaid rent and utilities for the months up to and including April 2012. The landlord is granted leave to reapply for loss of rent and utilities with respect to subsequent months.

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: May 03, 2012.

---

Residential Tenancy Branch