



# Dispute Resolution Services

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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 allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant S.R. called in and participated in the hearing, but the tenant P.S.R. did not appear although she was personally served with the Application for Dispute Resolution and Notice of Hearing on April 18, 2012 at the rental property. The tenant, S.R. testified that he was an intended tenant, but after an argument with P.S.R. within two days of moving into the rental unit he moved out and has not lived there since March 2, 2012. The landlord confirmed at the hearing that she is not seeking a remedy against S.R. and accordingly the claim against his is dismissed

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

This tenancy began on December 1, 2011. The rent is \$700.00 due in advance on the first day of each month. The tenant paid a security deposit of \$350.00 at the start of the tenancy. The tenant did not pay rent for April when it was due. On April 2, 2012 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The tenant has not paid rent for April or for May and she did not file an application to dispute the Notice to End Tenancy. The landlord testified at the hearing that in addition to the rent for April and May that she owes, the tenant borrowed the sum of \$200.00 for her personal use that she has not repaid.

### 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, as in the present case, 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.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order and Security Deposit* - I find that the landlord has established a total monetary claim of \$1,400.00 for the outstanding rent for February and March. The personal loan of \$200.00 to the tenant does not fall within my jurisdiction under the *Residential Tenancy Act* and the landlord's claim to recover that amount is dismissed with leave to pursue it in another forum. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,450.00. I order that the landlord retain the deposit and interest of \$350.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,100.00. 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: May 03, 2012.

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Residential Tenancy Branch