



# Dispute Resolution Services

Page: 1

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 did not appear although he was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on April 20, 2012.

### 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 May 15, 2011. The rent is \$830.00 due in advance on the first day of each month. The tenant paid a security deposit of \$415.00 at the start of the tenancy. The tenant has a history of late rent payments and rent cheques that have been returned "NSF". The tenant's cheque in payment of April rent was dishonoured and returned to the landlord marked "NSF". On April 5, 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. After he received the Notice to End Tenancy the tenant gave the landlord a money order in the amount of \$440.00 on April 16, 2012; after this payment there was \$400.00 outstanding, which included some late fees. The landlord's agent testified that the tenant made a money order payment of \$400.00 in May that was applied to the balance of April's rent. It was accepted for use and occupancy only. May rent has not been paid and the tenant did not file an application to dispute the Notice to End Tenancy.

### 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 \$830.00 for the outstanding rent for May. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$880.00. I order that the landlord retain the deposit and interest of \$415.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$465.00. 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 09, 2012.

---

Residential Tenancy Branch