



# 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 pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, strata fines and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his monetary claim.

The notice of hearing was served on the tenant on April 20, 2012 by registered mail. The landlord filed a tracking slip. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was 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, strata fines, the filing fee and to retain the security deposit?

### **Background and Evidence**

The tenancy started on September 01, 2011. The monthly rent is \$1,450.00 due in advance on the first of each month. The tenant paid a security deposit of \$725.00.

The landlord testified that the tenant failed to pay rent for April 2012. On April 08, 2012, the landlord served the tenant with a ten day notice to end tenancy. The tenant did not dispute the notice and continued to occupy the rental unit without paying rent. At the time of the hearing the tenant owed the landlord \$1,450.00 for April plus \$1,450.00 for May 2012.

The landlord also applied for \$200.00 in strata fines levied on the tenant for keeping two pets in the rental unit, thereby breaching a strata by law. The landlord filed a warning letter from the strata council but did not file evidence to demonstrate that a fine was levied and paid.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$3,150.00 which consists of unpaid rent for April 2012 (1,450.00), unpaid rent for May 2012 (\$1,450.00), strata fine (\$200.00) plus the filing fee (\$50.00).

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on April 08, 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 two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to \$2,900.00 for unpaid rent. I further find that the landlord has not filed sufficient evidence to support his claim of \$200.00 towards the strata fine and therefore this portion of his claim is dismissed. Since the landlord has proven most of his case, he is entitled to the recovery of the filing fee of \$50.00. I order that the landlord retain the security deposit of \$725.00 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 \$2,225.00. 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 two days after service on the tenant and a monetary order in the amount of **\$2,225.00**.

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: May 08, 2012.

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Residential Tenancy Branch