



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

*OPR, MNR, MNSD, 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 and the filing fee.

The notice of hearing was served on the tenant on March 13, 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.

At the start of the hearing, the landlord informed me that the tenant was all caught up on rent and was given a receipt for use and occupancy only. Accordingly this hearing only dealt with the landlord's application for an order of possession and for the recovery of the filing fee.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover the filing fee?

### **Background and Evidence**

The tenancy started prior to May 2011. The monthly rent is \$1,150.00 due in advance on the first of each month.

The landlord testified that the tenant failed to pay rent for April 2012. On April 03, 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. However, on April 26, 2012 the tenant paid rent for April and on May 02, 2012, he paid rent for May 2012. At the time of the hearing the tenant did not owe rent.

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 \$50.00 for the filing fee.

**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 03, 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.

Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. 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 **\$50.00**.

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 10, 2012.

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Residential Tenancy Branch