



# 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 for Dispute Resolution by the Landlord for an order of possession based on unpaid rent, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an order of possession and monetary relief?

### Background and Evidence

Based on the affirmed testimony of both parties, I find that the Tenant was personally served with a 10 day Notice to End Tenancy for non-payment of rent on May 23, 2012. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The Tenant testified that he had not paid the rent for May or June of 2012. He further testified that the Landlord had initially put a wrong version of his name on the 10 day Notice to End Tenancy, and he had to assist the Landlord with putting the correct version of his name on the Notice.

The Tenant testified he paid the security deposit to the Landlord on June 1, 2009.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent and did not file an Application to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

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.

The Tenant acknowledged he knew the Notice was for him and the name on the Notice was corrected by him. I find this does not alter the Landlord's entitlement to an order of possession or a monetary order.

I find that the Landlord has established a total monetary claim of \$1,500.00 comprised of \$725.00 for May rent, \$725.00 for June rent, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of 362.50 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,137.50**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

I note there is no interest payable on security deposits collected since 2009.

### Conclusion

The Tenant failed to pay rent and did not file an Application to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an Order of Possession, may keep the security deposit in partial satisfaction of the claim and is granted a monetary order for the balance of rent due.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: June 28, 2012.

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Residential Tenancy Branch