



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to the landlords application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

At the outset of the hearing the landlord advised that the tenant is no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession. The landlord also withdrew his application for Money owed or compensation for damage or loss.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, and the landlord gave sworn testimony that the tenant was served in person on September 28, 2012.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

Is the landlord entitled to a Monetary Order to recover unpaid rent?

### Background and Evidence

The landlord testifies that this month to month tenancy started on March 01, 2007. Rent for this unit was \$1,500.00 per month and was due on the 1<sup>st</sup> day of each month.

The landlord testifies that the tenant failed to pay rent for September, 2012 of \$1,500.00. The landlord served the tenant with a 10 Day Notice to End Tenancy on September 17, 2012 in person. This Notice informed the tenant that he had five days to pay the outstanding rent or apply to dispute the Notice or the tenancy would end on September 27, 2012. The landlord testifies that the tenant did not pay the rent and also failed to move from the rental unit by the effective date of the Notice.

The landlord testifies that the tenant failed to pay rent for October on the day it was due but did pay \$500.00 on October 03, 2012. This was applied to the outstanding rent for September and was accepted for use and occupancy only. The landlord testifies that the tenant did not move from the rental unit until October 19, 2012. The landlord seeks to recover the unpaid rent of \$2,500.00. The landlord testifies he could not re-rent the unit due to the terrible condition the tenant left the unit in.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the landlord.

Section 26 of the Act states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently as the tenant has not appeared to dispute the landlord's evidence I find the tenant owes rent for September, 2012 of \$1,000.00 and rent for October, 2012 of \$1,500.00. The landlord has therefore established a claim for a Monetary Order to recover the sum of **\$2,500.00** pursuant to s. 67 of the *Act*.

As the landlord has been successful with his amended claim I find the landlord is entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s.72(1) of the *Act*.

### Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,550.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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: November 01, 2012.

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Residential Tenancy Branch