



# 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 landlord also applied to retain the security deposit in satisfaction of her claim.

The notice of hearing was served on the tenant by posting it on his door. 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.

During the hearing, the landlord requested that her application to retain the security deposit be dismissed with leave to reapply. Since the tenant is currently in occupation of the rental unit, I allow the landlord's request. Accordingly, this hearing only dealt with the landlord's application for an order of possession, a monetary order for unpaid rent and 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 unpaid rent and the filing fee?

### **Background and Evidence**

The tenancy started on May 02, 2012. The rent is \$800.00 due on the first of the month. Prior to moving in, the tenant paid a security deposit of \$400.00. The tenant failed to pay rent on August 01, 2012 and on August 07, 2012; the landlord served the tenant with a ten day notice to end tenancy.

The tenant did not pay rent and continues to occupy the rental unit. As of the day of this hearing the tenant owed rent for August, September and October for a total of \$2,400.00. The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order for \$2,450.00 which consists of unpaid rent 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 August 07, 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 \$2,400.00 for unpaid rent. 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 the amount due of \$2,450.00. 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 **\$2,450.00**.

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: October 05, 2012.

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Residential Tenancy Branch