



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *OPB, MNSD, MND*

### **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 damages. The landlord also applied to retain the security deposit.

Both parties attended the hearing and were 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 retain the security deposit?

### **Background and Evidence**

The tenancy started on September 17, 2012. The monthly rent is \$400.00 due in advance on the first of each month. The tenant paid a security deposit of \$200.00.

The landlord has applied for an order of possession, but did not serve the tenant with a notice to end tenancy. The landlord stated that during a conversation, the tenant agreed to move out and therefore the landlord did not serve the tenant with a notice in the approved form.

The landlord filed a letter signed by the tenant stating that she would move out by November 01, 2012 and requested the return of her rent for November. The tenant stated that the letter was fraudulent.

### **Analysis**

Section 52 of the *Residential Tenancy Act* states that in order to be effective, a notice to end a tenancy must be in writing and when given by a landlord to a tenant, must be in the approved form.

In this case the landlord did not serve the tenant with a proper notice and therefore her application for an order of possession is dismissed.

Since the tenancy has not yet ended, the landlord's application to retain the security deposit is dismissed with leave to reapply.

### **Conclusion**

The landlord's application for an order of possession is dismissed.

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: December 06, 2012.

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Residential Tenancy Branch