



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, OPR, MNR, MNSD

### Introduction

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is a request for an order of possession based on a notice to end tenancy for nonpayment of rent, a request for a monetary order for \$5,000.00, a request for recovery of the \$50.00 filing fee, and a request to retain the full security deposit towards the claim.

### Background and Evidence

The applicant testified that:

- At this time there is a total of \$3200.00 in rent outstanding to the end of November 2012.
- The tenant was served with a 10 day notice to end tenancy for nonpayment of rent by registered mail that was mailed on October 3, 2012. To date she has not complied with that notice.
- The tenant has supplied a check for the December 2012 rent however at this point they're not even sure if that will clear.
- There are also five late fees for which they charge \$30.00 each.

The applicant's are therefore requesting an order of possession for December 15, 2012 and a monetary order as follows:

Rent outstanding to the end of November 2012	\$3200.00
Late fees	\$150.00
Filing fee	\$50.00
Total	\$3400.00

The respondent testified that:

- I do owe the full amount of rent claim by the landlord.
- I've had financial problems because my daughter's father, who has a gambling problem, drained my bank account.
- I am trying to catch up but can only afford a couple hundred dollars at a time.
- I would like to stay in the rental unit, and would like to know what the landlords need to allow me to do so.

In response to the tenants testimony the landlord stated:

- If the tenant pays the full outstanding rent, plus late fees and the filing fee by December 15, 2012 they will allow the tenancy to continue.
- However they still want an order of possession and a monetary order in case the tenant does not pay the full amount by December 15, 2012.

### Analysis

It is my finding that since the landlords have served a valid 10 day notice to end tenancy, and since the tenant admits that she still owes \$3200.00 in back rent, I will issue the requested order of possession to the landlord.

I also allow the landlords request for outstanding rent totaling \$3200.00.

I will not allow the full amount claimed for late fees, because the Residential Tenancy Regulations only allow late fees of \$25.00, and therefore I allow a total of \$125.00.

I also order recovery of the filing fee.

### Conclusion

I've issued an Order of Possession for 1 p.m. December 15, 2012.

I've issued a Monetary Order in the amount of \$3375.00.

I make no order with regards to the security deposit at this time, because the tenancy may continue if the tenant complies with the landlord's requirements.

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 05, 2012.

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Residential Tenancy Branch