



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## Decision

### Dispute Codes

*OPR, MNR, MNDC, CNR, FF.*

### Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for the following:

- An order of possession pursuant to Section 55
- A monetary order for rent owed, pursuant to Section 67
- A monetary order for the recovery of the filing fee, pursuant to Section 72

The tenant applied for the following:

- An order to cancel the notice to end tenancy for rent, pursuant to Section 46
- A monetary order

Only the landlord attended the hearing. The landlord testified that the tenant was served by registered mail sent on November 28, 2012 and provided proof of service that included registered mail receipts from Canada Post.

As the tenants did not attend to present their evidence or support their application, the tenant's application was dismissed without leave.

### Issues to be decided: Landlord's Application

- Is the landlord entitled to an order of possession for unpaid rent? In order to answer this question it must be determined:
- Has the Landlord established monetary entitlement to compensation for rent still outstanding?

### Background and Evidence

The tenancy started on June 1, 2012 and the current rent is \$1,350.00 per month payable on the 1st day of each month. A security deposit of \$675.00 was paid. A copy of the tenancy agreement was in evidence.

A copy of the Ten Day Notice to End Tenancy for Unpaid Rent was also in evidence. The landlord testified that, the tenant failed to pay \$1,350.00 rent for November 2012 and a Ten Day Notice to End Tenancy for Unpaid Rent was served on the tenant. The landlord testified that the tenant failed to pay the rental arrears and did not pay the \$1,350.00 rent owed for December 2012.

The landlord is seeking a monetary order and an Order of Possession.

**Analysis:**

A landlord can issue a Notice to End Tenancy for Unpaid Rent or Utilities under section 46 of the Act when rent is in arrears.

I find that the tenant owed arrears of \$1,350.00 for November 2012 and failed to pay the rent within 5 days of receiving the Notice. Payment of the rent within five days of receiving the Notice would have served to automatically cancel the Notice. In this instance the debt was not paid and the tenant accrued further arrears of \$1,350.00 for the month of December 2012.

Given the above, I find that the landlord is entitled to an Order of Possession under the Act.

In regard to the rental arrears, I find that section 26 of the Act states that rent must be paid when it is due, whether or not the landlord complies with the Act, the regulations or the tenancy agreement.

I find that the tenant did not pay the rent when it was due. I find that the landlord is entitled to compensation of \$2,750.00, comprised of \$2,700.00 accrued rental arrears and the \$50.00 cost of the application.

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

As I have found that the landlord is entitled to be reimbursed \$2,750.00, I order that the landlord retain the tenant's \$675.00 security deposit in partial satisfaction of the claim, and hereby issue a monetary order to the landlord for the remainder of \$2,075.00. This order must be served on the tenant and, if unpaid, may be filed in Small Claims Court and enforced as an order of that court.

**Conclusion**

The tenant's application is dismissed in its entirety, without leave to reapply.

The landlord's application was successful and the landlord is granted an Order of Possession and a Monetary Order for \$2,075.00 for rent owed.

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 19, 2012.

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Residential Tenancy Branch