



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not appear although she was personally served with the Application for Dispute Resolution and Notice of Hearing by on December 11, 2012.

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

This tenancy began on September 1, 2011 for a one year fixed term and thereafter month to month. The rent is \$700.00 due in advance on the first day of each month. The tenant paid a security deposit of \$350.00 at the start of the tenancy. The tenant did not pay rent for December when it was due. On December 2, 2012 the landlord personally served the tenant with a Notice to End Tenancy for non-payment of rent. In late December the tenant paid rent for December. She has paid rent for January, but the landlord has made it clear that he does not accept the payment as reinstating the tenancy. The landlord testified that the tenant has been hospitalized due to health problems and she has notified the landlord that she intends to end the tenancy at the end of January.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. The tenant has not disputed the

Notice and she did not pay the outstanding rent within five days of receiving the Notice to End Tenancy. The landlord accepted the tenant's payment of rent for January, but did not reinstate the tenancy; he told the tenant that he still expected her to move at the end of the month. The tenant has also given notice that she intends to move at the end of the month.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective January 31, 2013, after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order and Security Deposit* – There is no rent currently outstanding, but the landlord is entitled to recover the \$50.00 filing fee for this application and he may deduct the said sum from the security deposit that he holds. The balance of the security deposit must be dealt with in accordance with the *Residential Tenancy Act* at the end of the tenancy.

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: January 15, 2013

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Residential Tenancy Branch

