



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, and for a monetary order for unpaid rent.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on December 24, 2012. A Canada post tracking number was provided as evidence, the tenant did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been three days later. I find that the tenant has been duly served in accordance with the Act.

The landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

Is the landlord entitled to recover the cost of the filing fee?

### Background and Evidence

Based on the testimony of landlord, I find that the tenant was served with a notice to end tenancy for non-payment of rent on December 13, 2012, by posting on the door of the rental unit, which was witnessed. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord stated the tenant did not pay rent for December 2012 and January 2013.

The landlord stated on or about January 17 or 18, 2013, the police attended the rental unit and it was at that time the tenant produced two rent cheques. The landlord states he is unsure if the cheques will be cashable as there is no bank on the island where they reside.

The landlord stated he was not reinstating the tenancy and that was made clear to the tenant in the presence of the police.

The landlord stated he seeks a monetary order for unpaid rent and if the cheques are cashable by the bank those amounts will be credited to the monetary order.

The landlord stated he seeks to recover \$7.00 the bank charged him as a service fee for tenant's cheque being returned for insufficient funds. Filed in evidence is a copy of the dishonored cheque.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant did not pay the outstanding rent within five days of receiving the Notice and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of **\$1,057.00** comprised of unpaid rent, the insufficient funds fee and the \$50.00 fee paid by the landlord for this application. I grant the landlord an order under section 67 for the above balance.

Should the cheques received by the landlord be cashable the landlord is to credit those amounts to the above amount monetary claim.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

The tenant failed to pay rent within five days of receiving the notice to end tenancy and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, a monetary order for the balance above.

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 23, 2013

---

Residential Tenancy Branch

