



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BRISTOL ESTATES  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, FF

### **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 unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the monetary claim.

The notice of hearing was served on the tenant on February 18, 2013, in person in the presence of a witness. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was 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 a monetary order to recover unpaid rent, the filing fee and to retain the security deposit?

### **Background and Evidence**

The tenancy started on August 01, 2010. The monthly rent is \$1,100.00 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$550.00.

The landlord testified that the tenant failed to pay rent for February and on February 02, 2013; the landlord served the tenant with a ten day notice to end tenancy. The tenant did not dispute the notice and continued to occupy the rental unit. However the tenant made a partial payment and the landlord issued a receipt for use and occupancy only. At the time of the hearing the tenant owed the landlord \$595.00 in unpaid rent plus \$50.00 for late fees.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$645.00 which consists of unpaid rent plus late fees. The landlord is also applying for \$50.00 for the filing fee.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on February 02, 2013 and did not pay full rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to her claim of \$645.00 for unpaid rent and late fees. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. I order that the landlord retain the security of \$550.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$145.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant and a monetary order in the amount of **\$145.00.**

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: March 12, 2013

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Residential Tenancy Branch

