



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WINGS HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes MT, CNR, OPR, MNR, MNSD, FF

### Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For an order of possession for unpaid rent;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To allow a tenant more time to make an application to cancel a notice to end tenancy; and
2. To cancel a notice to end tenancy.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

### Preliminary Issue

The tenant acknowledged she received the ten day notice to end tenancy on January 24, 2013, with an effective vacancy date of February 7, 2013. Under the provisions of the Act the tenant had five days to pay rent in full or to file an application for dispute resolution.

Under section 66 (3) of the Act, the director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

In this case, the tenant's application was filed on February 18, 2013, which was after the effective date in the notice. As a result, the tenant's application to allow more time to make an application must be dismissed.

Further, I find that there is no merit to the tenant's application. In particular, the tenant admitted that rent was owed when she received the notice and that amount was not paid within the five days required by the Act.

#### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

#### Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on January 24, 2013, by posting to the door, which was acknowledged by the tenant. 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's agent testified the tenant was in rent arrears in the amount of \$1,425.00 as of October 25, 2012, and the tenant has not paid any rent any rent for November , December 2012, January, February and March 2013, and currently owes \$3,183.00 in unpaid rent.

The tenant does not dispute the amount owed for unpaid rent.

#### Analysis

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

The tenant has not paid the outstanding rent and did not apply to dispute the Notice prior to the effective date of the notice. Therefore, pursuant to section 46(5) the tenancy ended on February 7, 2013, as stated in 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 **\$3,233.00** comprised of unpaid rent and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the deposit and interest of \$475.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$2,758.00**.

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 and did not file to dispute the notice to end tenancy prior to the effective date of the notice. 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, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 04, 2013

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Residential Tenancy Branch

