



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, 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. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### **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 and the filing fee?

### **Background and Evidence**

The tenancy started on September 01, 2012. The monthly rent is \$900.00 payable on the first of each month. The landlord stated that the tenant was required to pay an additional \$42.00 per month for the cost of water, sewage and garbage. The tenant disputed this and stated that she was not informed of this charge at the time she and the landlord entered into a verbal agreement.

The landlord filed a copy of the tenancy agreement which states that the rent is \$942.00. This agreement was filled out by the landlord after the tenancy started and was not signed by the tenant. The tenant stated that the unit was advertised for rent of \$900.00 plus utilities and she was not informed that the utilities also included water sewage and garbage. The tenant stated that she rented the unit for \$900.00 plus the cost of hydro and gas and therefore did not owe \$42.00 for the city levied utilities.

The tenant agreed that she did not pay rent for January, February and March. On February 11, 2013, the landlord served the tenant with a notice to end tenancy for non payment of rent.

The landlord is applying for an order of possession effective March 31, 2013 and for a monetary order in the amount of \$2,910.00 for unpaid rent and utilities.

### **Analysis**

Based on the sworn testimony of the both parties, I find that on a balance of probabilities, at the start of the tenancy, the tenant was not aware that she had to pay an additional \$42.00 per month for water, sewage and garbage. The landlord agreed that this was not made clear in the advertisement for the vacancy. Therefore I find that at the start of the tenancy, the parties were not in agreement regarding this addition to the rent. I further find that, the tenant was presented with a written agreement after she moved in, which included the additional \$42.00 in rent and she did not sign it because she did not agree with it. Accordingly, I find that the landlord is not entitled to her claim of \$42.00 per month for water, sewage and garbage.

The tenant received the notice to end tenancy for unpaid rent, on February 11, 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 on or before 1:00 pm on March 31, 2013. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$2,700.00 for unpaid rent. Since the landlord has proven her claim she is entitled to the recovery of the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the total of 2,750.00. 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 on or before 1:00 pm on **March 31, 2013** and a monetary order for **\$2,750.00**.

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 20, 2013

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Residential Tenancy Branch