



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not appear although he was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on February 14, 2013.

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

### Background and Evidence

There was a previous dispute resolution proceeding concerning this tenancy. In a decision dated January 24, 2013 it was established that the tenancy began on November 2, 2012 and the monthly rent is \$1,600.00. It was also found that there was unpaid rent of \$96.57 from November, 2012 and \$1,100.00 of unpaid rent for December.

The tenant paid the rent for January, but did not pay the arrears. He did not pay rent for February when it was due. The landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent by registered mail sent on February 2, 2013. The Notice claimed that the tenant failed to pay rent in the amount of \$2,796.57 that was due on February 1, 2013.. The amount was made up of rent for February and \$1,196.57 in arrears. The tenant did not apply to dispute the Notice to End Tenancy, but on February 12, 2013 he gave the landlord two money orders, one for \$900.00 and one for \$466.72. The landlord has the money orders but has not cashed them. The tenant has not paid rent for March. The landlord has told the tenant that he wants the tenant to move. The tenant has said that he will move out by March 15<sup>th</sup>.

### 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. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession. I find that the order should be effective March 15, 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 are arrears of rent from November and December of \$1,196.57. The tenant paid \$1,366.72 in February, leaving \$233.28 outstanding for February. The landlord is entitled to an award of \$800.00 for rent up to March 15<sup>th</sup> for a total of \$2,229.85. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$2,279.85 and I grant the landlord an order under section 67 in the said amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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 08, 2013

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Residential Tenancy Branch

