



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Capreit Limited Partnership  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FF, MNR, MNSD, OPR

### Introduction

Some documentary evidence and written arguments have been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant(s) testified that the respondent was served with notice of the hearing by Registered Mail that was mailed April 24, 2013; however the respondent(s) did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This was an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a monetary Order for \$1740.30, and a request for recovery of the \$50.00 filing fee. The applicant was also requesting an Order to keep the full security deposit towards the claim.

At the hearing however the landlord stated that the tenant has paid the full outstanding rent and it was accepted for use and occupancy only.

The landlord therefore reduced the claim to a request for an Order of Possession for June 1, 2013, and a request for a monetary Order for recovery of the \$50.00 filing fee.

### Background and Evidence

The applicant testified that:

- This tenancy began on April 1, 2007 and at that time a security deposit of \$315.00 was collected.
- The tenant failed to pay the full April 2013 rent, and therefore on April 2, 2013 a 10 day Notice to End Tenancy was posted on the tenant's door.
- The tenant did not pay the outstanding rent within the required timeframe and therefore on April 24, 2013 they applied for dispute resolution.
- The tenant has subsequently paid all outstanding rent however it was accepted for use and occupancy only.
- They are therefore no longer requesting an Order for the outstanding rent, however they request an Order for the \$50.00 filing fee.
- There also requesting an Order of Possession for June 1, 2013, however they've inform the tenant that they will not enforce that Order if she pays the June 1, 2013 rent on time, and also pays the \$50.00 filing fee.

### Analysis

It's my finding that the landlord has shown that the tenant was properly served with a 10 day Notice to End Tenancy and has failed to comply with that notice.

It's also my finding that although the full outstanding rent has now been paid, it was accepted for use and occupancy only and therefore the landlord still has the right to an Order of Possession.

I also allow the request for recovery of the filing fee.

Conclusion

I have issued an Order of Possession for 1 PM on June 1, 2013.

I've issued a monetary Order in the amount of \$50.00 to cover the cost of the filing fee.

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: May 22, 2013

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Residential Tenancy Branch

