



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OPC, OPR, MNR, MNDS, FF

### Introduction

This hearing dealt two related applications. File is the tenant's application for an order setting aside a 1 Month Notice to End Tenancy for Cause. File is the landlord's application for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute Resolution and Notice of Hearing of the landlord's claim by personal service on August 15, 2013, the Tenant did not appear.

### Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?
- Is the landlord entitled to retain the security deposit?

### Background and Evidence

This tenancy commenced July 1, 2012 as a one year fixed term tenancy and was to continue thereafter as a month-to-month tenancy. The monthly rent of \$1400.00 was due on the first day of the month. The tenant paid a security deposit of \$700.00 and a pet damage deposit of \$700.00.

On July 10, 2013, the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause with an effective date of August 31, 2013. The tenant filed an application disputing this notice.

The tenant did not pay the August rent when due. On August 3 the landlord issued and served a 10 Day Notice to End Tenancy for Non-Payment of Rent. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The landlord testified that the tenant did neither.

### Analysis

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Residential Tenancy Act* to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order of possession effective two days after service on the Tenant.

I find that the landlord has established a total monetary claim of \$1450.00 comprised of arrears of the August rent in the amount of \$1400.00 and the \$50.00 fee paid by the landlord for this application. Pursuant to section 72 I order that the Landlord retain the security deposit of \$700.00 and pet damage deposit of \$700.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$50.00.

As the tenant did not appear at the hearing his application for an order setting aside the 1 Month Notice to End Tenancy for Cause dated July 10, 2013, is dismissed.

Conclusion

- a. An order of possession effective two days after service on the Tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$50.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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: August 27, 2013

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Residential Tenancy Branch

