



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNR OPR MNSD FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend. The landlord gave evidence that the Notice to end Tenancy dated June 5, 2013 was served by posting it on the door (witnessed) and the Application for Dispute Resolution by registered mail. It was verified online that the postal service attempted delivery, and left a notice but it was unclaimed by the tenant after 20 days of availability. I find that the tenant is deemed to be served with the documents according to sections 88 and 89 of the Act.

### **Issue(s) to be Decided:**

The tenant was issued a Notice to End Tenancy dated June 5, 2013 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

### **Background and Evidence:**

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises in April 2012 on a fixed term lease expiring on April 30, 2013, a security deposit of \$450 was paid and rent is currently \$900 a month. A rent rebate of \$112 monthly was offered during the fixed term lease for authorized debit but is no longer applicable. It is undisputed that the tenant owes \$550 rent for June 2013; after receiving the Notice, the tenant paid \$350 of the June rent and was given a receipt "for use and occupancy only". The tenant provided no documents to dispute the matter and had not filed an Application.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

#### Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made 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. An Order of Possession is issued effective two days from service.

#### Monetary Order

I find that there are rental arrears in the amount of \$550 representing rental arrears for June 2013. Although partial rent was paid for June, I find the landlord qualified acceptance of this rent for use and occupancy only and did not reinstate the tenancy.

### **Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the rental amount owing and to recover filing fees paid for this application. I give the landlord leave to reapply for further amounts owing as the tenant is still in residence and only rent for June 2013 was included in this application.

#### Calculation of Monetary Award:

Outstanding rent for June 2013	550.00
Filing fee	50.00
Less security deposit (no interest 2012-13)	-450.00
Monetary order to landlord	150.00

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: August 06, 2013

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Residential Tenancy Branch

