



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, 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. The landlord also applied to retain the security and pet deposits in satisfaction of her claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **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, the filing fee and to retain the security and pet deposits?

### **Background and Evidence**

The tenancy started on July 01, 2011. The monthly rent is \$1,161.67 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$545.00 and a pet deposit of \$545.00.

The landlord stated that the tenant was repeatedly late paying rent and on September 01, 2013, the tenant failed to pay rent. On September 03, 2013, the landlord served the tenant with a ten day notice to end tenancy. The tenant failed to pay full rent within five days.

However the tenant made a payment of \$900.00 on September 09, 2013 and the landlord issued a receipt for use and occupancy only.

At the time of the hearing the parties agreed that \$523.74 was owed to the landlord for unpaid rent. The landlord has applied for an order of possession effective two days after service on the tenant.

### **Analysis**

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on September 03, 2013 and did not pay 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 two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$523.74 for unpaid rent. Since the landlord has proven her case she is also entitled to the recovery of the filing fee of \$50.00. I order that the landlord retain \$573.74 from the security and pet deposits and return the balance in accordance with s.38 of the *Residential Tenancy Act*

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant. The landlord may retain \$573.74 from the security and pet deposits.

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: October 30, 2013

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Residential Tenancy Branch

