



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord 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 by registered mail actually received on September 19, 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 one year fixed term tenancy commenced August 1, 2013. The monthly rent of \$740.00 is due on the first day of the month. The tenant paid a security deposit of \$370.00 and a pet damage deposit of \$200.00.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent on September 3, 2013, by posting it to the door of the rental unit. 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 paid \$675.00 towards the September rent on September 29 for which he was given a receipt that stated the payment was for use and occupancy only. The tenant did not service the landlord with an application disputing the notice to end tenancy.

The landlord testified that the tenant had not paid the rent for October and the arrears for September and October total \$805.00.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent in full within the five day period 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 \$\$905.00 comprised of arrears of rent for September and October in the amount of \$805.00; late payment fees for September and October of \$25.00 for each month; and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the security deposit of \$370.00 and the pet damage deposit of \$200.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$\$335.00.

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 \$335.00 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: October 02, 2013

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Residential Tenancy Branch