



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WALL FINANCIAL CORPORATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPR, MNR, MNDC, 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, late fees and the filing fee.

The landlord served the notice of hearing on the tenant on October 23, 2013 in person. The tenant signed in acknowledgement of having received the notice of hearing and evidence package. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was 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, late fees and the filing fee?

### **Background and Evidence**

The tenancy started in May 2013. The monthly rent is \$835.00 due in advance on the first of each month. The landlord filed a copy of the signed tenancy agreement which contains a clause requiring the tenant to pay a late fee of \$20.00 for rent paid late.

The landlord testified that the tenant failed to pay full rent for October. On October 10, 2013 the landlord served the tenant with a notice to end tenancy for unpaid rent. The tenant paid the outstanding amount on October 28 and rent for November on November 14, 2013. The landlord issued receipts for use and occupancy only.

The tenant did not dispute the notice and also did not pay all the outstanding rent. The tenant continues to occupy the rental unit and as of the date of the hearing owes the landlord \$835.00 in unpaid rent plus \$20.00 for a late fee. The landlord has also applied for an order of possession effective two days after service on the tenant.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy on October 10, 2013 and did not pay outstanding rent 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 find that the landlord is entitled to \$835.00 for unpaid rent plus \$20.00 for the late fee. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$905.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant and a monetary order in the amount of **\$905.00**.

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: December 03, 2013

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Residential Tenancy Branch

