



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding THE WYNFORD GROUP  
and [tenant name suppressed to protect privacy]

## **Decision**

### **Dispute Codes:**

MNR, OPR, MNSD, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord seeking an Order of Possession and a monetary order for rental arrears based on a Ten-Day Notice to End Tenancy for Unpaid Rent dated October 18, 2013.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

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

Is the landlord entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent?

Is the landlord entitled to monetary compensation for rental arrears owed?

### **Background and Evidence**

The tenancy began in November 2012 with rent set at \$700.00. The landlord testified that, when they took over administration of the tenancy in June 2013 on behalf of the landlord, they were not aware that any security deposit had ever been paid. However, the tenant testified that, in lieu of paying the deposit, as part of an agreement with the original landlord, they completed work on the unit and the credit for this labour was valued at \$350.00.

The landlord testified that the Public Guardian and Trustee's office took over administration of this property in June 2013 and notified the tenant in July 2013

instructing them to pay the rent to the trustee's office. No copy of this notification was placed in evidence.

The landlord testified that their records show that the tenant has not paid rent for approximately 9 months. According to the landlord, the tenants defaulted on \$600.00 rent in May 2013 and then failed to pay the \$700.00 rent for each month including June, July, August, September, October, November and December in 2013 and also defaulted on rent due on January 1, 2014. The landlord testified that the tenants have accrued a debt of \$6,2000.00 to date.

The tenant testified that that, in July 2013, they did not receive the communication from the trustee's office that was being referred to. The tenant stated that they were not made aware that they should be paying their monthly rent directly to the trustee's office until September 2013. The tenant testified that they paid rent for May, June, July and August to a person who came to collect the rent, purporting to be an agent of their original landlord.

The tenant acknowledged that they did not pay any rent for the months of September, October, November and December 2013 nor January 2014.

The landlord testified that the tenant did not file an application to dispute the 10-Day Notice to End Tenancy for Unpaid Rent, did not satisfy the outstanding arrears and did not vacate the unit.

The landlord is seeking an Order of Possession and Monetary Order based on the 10-Day Notice to End Tenancy for Unpaid Rent.

### **Analysis**

Based on the testimony of both parties, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent. The tenant has not paid all of the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed, under section 46(5) of the 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.

Section 26 (1) of the Act states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement.

Based on the evidence and testimony, I find that the landlord has sufficiently proven a portion of their monetary claim and the landlord is therefore entitled to compensation of \$700.00 each month for five months, including September, October, November and

December 2013 and January 2014. The total amount to which the landlord is entitled is \$3,500.00, plus the \$50.00 cost of the application.

I order that the landlord retain the tenant's security deposit credit of \$350.00 in partial satisfaction of the claim, leaving a balance due to the landlord in the amount of \$3,200.00.

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the landlord a monetary order under section 67 for \$3,200.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### **Conclusion**

The landlord is partly successful in the application and is granted a monetary order and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

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: January 09, 2014

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Residential Tenancy Branch

