



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute codes      OP MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not appear although she was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on November 21, 2013.

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

This tenancy began on July 2, 2013. The rent is \$450.00 due in advance on the first day of each month. The tenant paid a security deposit of \$225.00 at the start of the tenancy. The tenant did not pay rent for November when it was due. On November 2, 2013 the landlord's agent personally served the tenant with a Notice to End Tenancy for non-payment of rent. The tenant paid the rent for November, but not until November 30, 2013. The landlord accepted the payment for "use and occupancy only" and issued a receipt to that effect. Rent for December and January has been paid but the payments were late and they were also accepted "for use and occupancy only". The tenant did not pay the rent within five days of receiving the Notice to End Tenancy and she did not file an application to dispute the Notice to End Tenancy. The landlord requested an order for possession.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted

that the tenancy ended on the effective date of the Notice. The landlord has accepted the tenant's January rent payment, "for use and occupancy only and wants her to move out at the end of this month.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective January 31, 2014 after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The landlord is entitled to recover the \$50.00 filing fee for this application and I order that the landlord retain the sum of \$50.00 from the security deposit that it holds.

The landlord's application for a monetary order for unpaid rent is dismissed.

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 16, 2014

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Residential Tenancy Branch

