



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.  
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 for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated DATE, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

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 all of the evidence that was served properly has been reviewed. The parties were also permitted to present affirmed oral testimony and submissions during the hearing. In making this decision, I have considered the evidence and testimony provided.

### **Preliminary Issue**

Although the landlord had named two different co-tenants in the application, only one was served in person with the Hearing package.

For this reason I find that the landlord can only proceed against the tenant who was properly served with the Notice of Hearing documents and the matter cannot proceed against the co-tenant not 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 landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated January 2, 2014 with effective date of January 12, 2014, copies of previous Notices and a copy of the tenancy agreement.

The landlord testified that the tenancy began on June 1, 2012, at which time the tenant paid a security deposit of \$380.00. The landlord testified that the tenant failed to pay \$491.64 rent for January 2014 and a 10-Day Notice to End Tenancy for Unpaid Rent was served on the tenant. The landlord testified that the amount of arrears shown on the January 2, 2014 Notice was incorrectly shown as \$468.00 and should have been shown as \$491.64 as the rent increase was not taken into account in calculating the arrears. The landlord testified that the tenant did pay all the arrears shown in the 10-Day Notice to End Tenancy, but did not pay within the 5-day deadline after receiving the Notice. The landlord is seeking an Order of Possession.

In regard to the monetary claim, the landlord is claiming \$21.00 still owed for January 2014 and \$788.88 unpaid arrears owed for February 2014.

The tenant acknowledged that they had paid the rent late in January due to financial difficulties. The tenant pointed out that they let the landlord know the rent would be late and paid the amount demanded for January as soon as they could manage it.

### **Analysis**

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent by posting it on the door. The tenant has not paid the arrears 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.

I find that the landlord has established a total monetary claim of \$859.88.00 comprised of \$809.88.00 accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit of \$380.00 in partial satisfaction of the claim leaving a balance due of \$479.88.

I hereby grant the Landlord an order under section 67 for \$479.88. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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 is final and

binding. If necessary it may be filed in the Supreme Court and enforced as an order of that Court.

**Conclusion**

The landlord's application is successful and the landlord is granted a monetary order for rental arrears and an Order of Possession.

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: February 04, 2014

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Residential Tenancy Branch

