



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Procam Developments Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent or utilities; for a Monetary Order for unpaid rent or utilities; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on January 30, 2014. The landlord later amended the application and that was also sent to the tenant by registered mail on February 17, 2014. Canada Post tracking numbers were provided by the landlord's agent in evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

At the outset of the hearing the landlord's agent advised that the tenant is no longer residing in the rental unit and vacated on or about February 20, 2014, and therefore, the landlord's agent withdraws the application for an Order of Possession.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent and late fees?

Background and Evidence

The landlord's agent testifies that this tenancy started on October 01, 2013 for a fixed term tenancy which is due to expire on March 31, 2014. Rent for this unit is \$1,125.00 per month due on the 1<sup>st</sup> of each month. The tenant paid a security deposit of \$562.00 on September 06, 2014. The landlord has provided a copy of the tenancy agreement in evidence.

The landlord's agent testifies that the tenant failed to pay rent for January, 2014 on the day it was due. A 10 Day Notice was issued on January 02, 2014 and served upon the tenant in person on that date. This Notice informed the tenant that there was outstanding rent of \$1,150.00 of which \$25.00 was for a late fee. The Notice informs the tenant that she has five days to either pay the outstanding rent or file an application to dispute the Notice or the tenancy will end on January 12, 2014. The tenant paid \$900.00 on January 14, 2014. The landlord testifies that this was accepted for use and occupancy only.

The landlord's agent testifies that the tenant failed to pay rent for February, 2014 of \$1,125.00. The landlord issued a second 10 Day Notice to End Tenancy on February 02, 2014 and this was served upon the tenant on that date. This Notice indicates that there is rent due of \$1,125.00 for February plus \$250.00 for January including the \$25.00 late fee. This Notice has an effective date of February 12, 2014. The tenant failed to make any further rent payments.

The landlord seeks a Monetary Order to recover the unpaid rent for January, 2014 of \$225.00, unpaid rent for February, 2014 of \$1,125.00, \$50.00 for two late fees for these months as indicated under the tenancy agreement and the \$50.00 filing fee for this application.

### Analysis

The tenant did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlord's documentary evidence and sworn testimony before me.

Section 26 of the *Residential Tenancy Act (Act)* states:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I am satisfied from the evidence before me that the tenant has failed to pay rent to a total amount of **\$1,350.00**. The landlord has therefore established a claim to recover this amount of rent and will receive a Monetary Order to this effect.

A landlord may charge a fee for late payment of rent where the tenancy agreement provides for that fee in accordance with s. 7(2) of the Residential Tenancy Regulations. I have reviewed the tenancy agreement provided in evidence by the landlord and find the tenancy agreement does provide for a late fee to be charged of \$25.00. S. 7(1)(d) of the Regulations states that subject to subsection (2), an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent may be charged. Consequently, I find the landlord is entitled to recover **\$50.00** for late fees for January and February, 2014.

As the landlord has been successful with their monetary claim I find the landlord is also entitled to recover the **\$50.00** filing fee from the tenant pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,450.00**. The Order must be served on the respondent. Should the respondent fail to comply with the Order, the Order may be enforced through the Provincial Court 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: March 10, 2014

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Residential Tenancy Branch

