



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR OPR MNSD FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend but the landlord gave sworn testimony that he had served the Notice to end Tenancy dated February 13, 2014 and the Application for Dispute Resolution personally on the tenant. His wife signed a Proof of Service. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

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

The tenant was issued a Notice to End Tenancy dated February 13, 2014 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

### **Background and Evidence:**

The tenant did not attend although served with the Application/Notice of Hearing. The landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced in February 2013, a security deposit of \$500 was paid and rent is currently \$1000 a month. The tenant claimed \$6000 in rent arrears on the Application and the tenant filed no documents in dispute. The landlord said the tenant had paid no rent since September 2013. He said he received cheques from the Ministry for the tenant but for some reason, the cheques were stopped in October 2013. He said the tenant has also moved a lot of other people into the unit and one person is even sleeping in the furnace room. The landlord is claiming the rental arrears of \$6000 from October to March and requests

an Order of Possession effective as soon as possible and an amendment to the application to retain the security deposit to offset the amount owing.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis**

**Order of Possession**

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made 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. An Order of Possession is issued effective two days from service as requested. The landlord was cautioned to follow the legal procedure to enforce this Order.

**Monetary Order**

I find that there are rental arrears in the amount of \$6000 representing rental arrears from October 1, 2013 to March 31, 2014. The amendment to retain the security deposit to offset the amount owing is granted.

**Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the rental amount owing. No filing fee is awarded as per administrative instruction.

**Calculation of Monetary Award:**

Rent arrears October 2013 to March 31, 2014	6000.00
Less security deposit (no interest 2013)	-500.00
Total Monetary Order to Landlord	5500.00

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: March 12, 2014

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Residential Tenancy Branch

