



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

OPL, MNDC, MNSD, MND, FF

### **Introduction**

This Application for Dispute Resolution by the landlord indicated that the landlord was seeking an Order of Possession based on a Ten-Day Notice to End Tenancy for Unpaid Rent and also seeking a monetary order for rental arrears owed.

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.

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

Is the landlord is entitled to monetary compensation under section 67 of the *Act*?

Is the landlord is entitled to an Order of Possession based on a Two Month Notice to End Tenancy for Landlord's Use?

### **Background and Evidence**

The landlord gave verbal testimony that a tenancy existed with the tenant named, and that the landlord had served the tenant with a Two Month Notice to End Tenancy for Landlord's Use.

However, the landlord had not submitted into evidence a copy of the Notice to End Tenancy and no copy of the tenancy agreement. The tenant also testified that no evidence had been served on the tenant.

### **Analysis**

An Order of Possession is based on the Two Month Notice to End Tenancy for Landlord's Use. The burden of proof is on the applicant to prove that the tenancy exists

and the landlord served the tenants with a valid and enforceable Two Month Notice to End Tenancy for Landlord's Use. The landlord must also submit and serve evidence upon which the landlord intended to rely to the Residential Tenancy Branch and the tenant.

I find that the material given to the applicant contains detailed information and instructions. Under the heading, "*GENERAL INFORMATION about your responsibility and the hearing*" the Notice states:

*"Evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. Instructions are included in this package. Deadlines are critical."*

The instructions go on to state that Residential Tenancy Branch Rules of Procedure apply to the proceedings and refers participants to contact the Residential Tenancy Branch and also gives the website address.

With respect to the landlord's request for an Order of Possession and monetary claim, I find that I am unable to make a determination in the absence of key evidence that must be submitted and that also must be served on the respondent 5 days prior to the hearing in accordance with the Act and Rules of Procedure.

### **Conclusion**

In light of the above, I find that this application cannot proceed under the circumstances and I make no findings on the merit of the application. The landlord's application is therefore dismissed with leave to reapply.

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: April 08, 2014

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Residential Tenancy Branch

