



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession based on unpaid rent, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Agents for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agents testified they served the Tenant with the Notice of Hearing and Application package by registered mail, sent on February 21, 2014. Under the Act the Tenant was deemed served five days later. The Agents further testified that the Tenant acknowledged to them she had received the notice of hearing package. Despite this the Tenant did not appear at the hearing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an order of possession and monetary relief?

### Background and Evidence

The Agents for the Landlord testified that the Tenant has been repeatedly late paying rent.

They testified that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent in the amount of \$1,124.60, on February 6, 2014, by posting it on the

door of the rental unit (the "Notice"). Under the Act the Tenant was deemed served three days later, on February 9, 2014.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice by filing an Application for Dispute Resolution.

The Agents testified that the Tenant paid the Landlord \$1,100.00 toward the amount owed on February 17, 2014. The Agents testified they issued the Tenant a receipt for use and occupancy only for this payment.

The Agents testified that when the Tenant received the Notice of this Hearing the Tenant asked the Agents why she received this. The Agents testified they explained the tenancy was still ending because she did not pay the rent or dispute the Notice within the five days.

The Agents testified that the Tenant paid an amount equal to the rent for March and April of 2014, and they issued her receipts for use and occupancy again.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant did not pay the outstanding rent and did not apply to dispute the Notice within the statutory time limits 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. The Tenant has paid for use and occupancy of the rental unit only and the tenancy ended in accordance with the Act on the effective date of the 10 day Notice.

I find that the Landlord is entitled to an order of possession effective at **1:00 p.m. April 30, 2014**. This order must be served on the Tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the Landlord has established a total monetary claim of \$74.60 comprised of unpaid rent of \$24.60 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord may retain **\$74.60** from the security deposit held and must deal with the balance of the deposit at the end of the tenancy in accordance with the Act.

### Conclusion

The Tenant failed to pay all the rent and did not file to dispute the Notice to End Tenancy within the statutory time frame of five days after service of the 10 day Notice to End Tenancy. The Tenant is presumed under section 46 of the Act to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an order of possession effective at **1:00 p.m. April 30, 2014**, may keep a portion of the security deposit in satisfaction of the monetary claim, and must deal with the security deposit balance due at the end of the tenancy.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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 10, 2014

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Residential Tenancy Branch

