



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Fireside Property Group  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord attended the teleconference hearing and gave evidence, however the tenant did not attend. The landlord gave evidence that she served the tenant with the Notice of a Dispute Resolution Hearing and Landlord's Application for Dispute Resolution by registered mail on April 25, 2014. I find the tenant was properly served.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The landlord gave evidence that the tenant paid a security deposit of \$350.00 at the start of his tenancy.

The landlord gave evidence that the tenant was personally served with a Notice to End Tenancy for Unpaid Rent (the "Notice") on April 3, 2014. The Notice indicates that the tenant failed to pay \$1,472.00 rent that was due April 1, 2014. The landlord's evidence is that the \$1,472.00 amount is comprised of \$736.00 rent for March 2014 and \$736.00 rent for April 2014. The Notice specifies an effective date of April 13, 2014.

The landlord gave evidence that the tenant did not make any further payments after the Notice was served. The landlord's evidence is that the tenant appears to have vacated the rental unit on May 5, 2014. The landlord requests an order of possession for certainty.

The landlord gave evidence that the rental unit must be cleaned and new flooring installed prior to showing it to new potential tenants. The landlord's evidence is that the tenant's dog left the carpet unusable. The landlord therefore claims a loss of rental income of \$736.00 for the month of May 2014.

### Analysis

I find the tenant received the Notice of April 3, 2014. I accept the landlord's evidence that the tenant made no further payments. According to Section 46(5), if a tenant does not pay the rent or make application for dispute resolution within five days of receiving the Notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. For these reasons, I find that the landlord is entitled to an order of possession. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I accept the landlord's evidence that the tenant occupied the rental unit until at least May 5, 2014 and the rental unit could not immediately be shown to new potential tenants because it was not clean and the flooring required replacement. For that reason, I find it is appropriate that I allow the landlord to amend his Application for Dispute Resolution to include a claim for May 2014 rent. The landlord is entitled to recover three months' rent, which totals \$2,208.00.00. The landlord is also entitled to recover his RTB filing fee of \$50.00.

The total amount due the landlord is \$2,258.00. I order that the landlord retain the security deposit of \$350.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,908.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### Conclusion

I grant the landlord an order of possession and a monetary order for \$1,908.00. The landlord may also retain the security deposit.

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: May 13, 2014

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Residential Tenancy Branch

