



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Creighton and Associates Realty  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            OPR, MNR, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on March 1, 2009. Rent of \$1,100.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$550.00 as a security deposit from the Tenant. The Tenant failed to pay rent for March 2014 and on March 5, 2014 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Tenant did not make an application for dispute resolution and moved out of the unit on March 29, 2014.

The Tenant states that the rent was paid by money order drawn on the CIBC and given to the Landlord on March 15, 2014 for the amount of \$1,100.00 plus \$25.00 for the late fee. The Tenant states that the Landlord then told the Tenant that they did not receive any money order so the Tenant gave them the receipt for the money order on March 19, 2014. The Landlord denies that such rent or receipt was received. The Landlord states that they no longer require an order of possession and claim \$1,100.00 in unpaid rent.

### Analysis

The tenancy agreement provides for the payment of \$1,100.00 in rent each month on the first day of each month. Section 26 of the Act provides that a tenant must pay rent when it is due under the tenancy agreement. No rent is payable after the tenancy ends. Where a landlord ends a tenancy with a notice to end for unpaid rent and the tenant remains in the unit past the effective date of the notice the tenant is obligated to pay over holding rent to the date the tenant moved out. Given the lack of a copy of the receipt or other basis to show payment, such as a bank statement showing the amount being drawn from an account, I find that the Tenant has not rebutted the Landlord's evidence and that the Landlord has substantiated on a balance of probabilities that March 2014 rent was not paid. Given that the Tenant moved out of the unit on March 29, 2014, I find that the Landlord is entitled to **\$1,100.00** in unpaid rent. The Landlord is entitled to recovery of the \$50.00 filing fee for a total monetary amount of **\$1,150.00**. Setting the security deposit of \$550.00 plus zero interest off the entitlement leaves **\$600.00** owed by the Tenant to the Landlord.

### Conclusion

**I order** that the Landlord retain the **deposit** and interest of \$550.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$600.00**. If necessary, this order may be filed in the Small Claims Court and enforced 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: May 12, 2014

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Residential Tenancy Branch

