



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail the Tenant did not appear.

### Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?
- Is the landlord entitled to retain the security deposit?

### Background and Evidence

This month-to-month tenancy commenced March 20, 2014. The monthly rent of \$900.00 was due on the first day of the month. The tenant paid a security deposit of \$450.00.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent when it was posted to the door of the rental unit on April 3, 2014. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The landlord testified that the tenant did neither.

The tenant did call the landlord from jail and advise that she would arrange to have the various people who were staying in the unit to move out. He has not heard from the tenant since.

The landlord testified that the tenant had not paid the rent for April and the arrears total \$900.00.

The landlord testified that a large quantity of furniture and personal belongings, including five king size mattresses, were left in the unit. Because he was concerned that either the tenant or any of the other occupants would make a claim against the personal belongings he did not attempt to re-rent the unit until this hearing was completed and he had obtained an order of possession. Between this concern and the

amount of cleaning and repairs that will be required in this unit the landlord is of the opinion that he will not be able to re-rent it until the end of June.

### Analysis

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

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Residential Tenancy Act* to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order of possession effective two days after service on the Tenant.

I find that the landlord has established a total monetary claim of \$2750.00 comprised of arrears of rent for April in the amount of \$900.00; loss of rental income for May and June in the amount of \$1800.00, and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit of \$450.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$2300.00.

As explained to the landlord in the hearing, once he has ascertained the actual cost of clean-up and repair he may make another application against the tenant for those costs.

### Conclusion

- a. An order of possession effective two days after service on the Tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$2300.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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: June 06, 2014

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Residential Tenancy Branch

