



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for an Order of Possession and a monetary order for unpaid rent and utilities, and to recover the filing fee from the tenant for the cost of the application.

One of the landlords attended the hearing and gave affirmed testimony. However, despite being personally served with the Landlord's Application for Dispute Resolution and notice of hearing documents on May 30, 2014, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participant who joined the call was the landlord. The landlord testified that the documents were served on that date and in that manner and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence and testimony provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent or utilities?
- Have the landlords established a monetary claim as against the tenant for unpaid rent and utilities?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on November 9, 2013 and the tenant still resides in the rental unit. Rent in the amount of \$700.00 per month is payable in advance on the 1<sup>st</sup> day of each month and the landlord collected a pro-

rated amount for the first month of the tenancy. No security deposit or pet damage deposit were collected. The landlord testified that the parties entered into a written tenancy agreement in those terms, but did not provide a copy for this hearing.

The landlord further testified that the tenant failed to pay rent when it was due on March 1, 2014 and continued to fall into arrears of rent through to May. The landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on May 15, 2014 by posting a copy to the door of the rental unit. A copy of the notice has been provided. It is dated May 15, 2014 and contains an expected date of vacancy of May 28, 2014. The notice states that the tenant failed to pay rent in the amount of \$2,100.00 that was due on May 1, 2014 and the tenant failed to pay utilities in the amount of \$1,090.13 following a written demand made on May 1, 2014. Both pages of the 2-page form have been provided.

The landlord also testified that the tenant was supposed to put the electrical in his name but didn't, and that utility is not included in the rent. The tenant has not paid any utilities since the commencement of the tenancy and the landlord has had to pay all of the bills, and claims from the tenant:

- \$212.15 for November 15/13 to January 6/14;
- \$575.68 for January 6/14 to March 5/14;
- \$302.30 for March 5/14 to May 7/14; and
- \$123.86 for May 7/14 to June 12/14.

None of the bills have been provided for this hearing, but the landlord has provided a document entitled "Details of the Dispute" and testified that it contains the contents of text messages exchanged between the parties where the payment of utilities was discussed.

The landlord testified that the rental unit has now been sold and the new owners want to rent the unit.

The landlord testified that the tenant has not paid any rent or utilities to the landlord since the issuance of the notice, and the tenant has not served the landlord with an application for dispute resolution disputing the notice to end tenancy.

### Analysis

The *Residential Tenancy Act* states that once a landlord serves a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant must pay the rent in full or dispute the notice within 5 days. If the tenant does neither, the tenant is conclusively presumed to

have accepted that the tenancy ends on the effective date of the notice, which must be no less than 10 days after service. In this case, I am satisfied that the tenant was deemed served with the notice on May 18, 2014, being 3 days after posting it to the door of the rental unit. The tenant did not dispute the notice and did not pay the rent and I am satisfied that the landlord is entitled to an Order of Possession.

I am also satisfied that the landlord has established a monetary claim as against the tenant for unpaid rent for the months of March, April, May and June, 2014. The landlord testified that the rental unit has now been sold and the new owners want to rent the unit. Therefore, I find that the landlord is not entitled to any rent for the month of July.

With respect to the landlords' monetary claim for utilities, the landlord has not provided a copy of the tenancy agreement proving that electrical is not included in the rent or any of the electrical bills. The landlord testified that the tenant was supposed to put the utility in his name but didn't. In the circumstances, I find that the landlord has failed to establish the monetary claim for utilities.

Since the landlords have been partially successful with the application, the landlords are also entitled to recovery of the \$50.00 filing fee.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlords on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,850.00.

This order is final and binding and may be enforced.

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: July 03, 2014

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Residential Tenancy Branch

