



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46 and 55; and
- c) To recover the filing fee for this application.

### **SERVICE:**

Both parties attended and the tenant agreed he received personally the Notice to end Tenancy dated May 15, 2014 and the Application for Dispute Resolution. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

### **Issue(s) to be Decided:**

The tenant was issued a Notice to End Tenancy dated May 15, 2014 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

### **Background and Evidence:**

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced in September, 2013, a security deposit of \$550 was paid and rent is currently \$1100 a month. The tenant agreed that he owed rent of \$700 for April 2014 and \$1100 for May 2014. The landlord had not submitted a copy of the Notice to End Tenancy and was instructed to fax it to the office. The landlord said the tenant had given a Notice to End his tenancy earlier, the landlord re-rented but the tenant had not vacated. He requests an Order of Possession and a Monetary Order for rental arrears.

The tenant contended that there were reasons he had not paid the rent and said he got no receipts. He had not submitted an Application to dispute the Notice to End Tenancy or to object to conditions in his tenancy. I declined to hear his complaints against the

landlord. On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

#### **Order of Possession**

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service. As pointed out to the tenant in the hearing, section 26 of the Act requires him to pay his rent whether or not the landlord is fulfilling his obligations under the Act. His recourse is to bring an Application during his tenancy to have problems addressed and perhaps be awarded a rent rebate.

#### **Monetary Order**

I find that there are rental arrears in the amount of \$1800 representing rental arrears for April and May 2014. The landlord did not request to retain the security deposit to offset the amount owing so it remains in trust for the tenant to be dealt with in accordance with section 38 of the Act. The parties were advised of this in the hearing.

### **Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to recover filing fees paid for this application. I give the landlord leave to reapply for a monetary order for further outstanding rent and/or damages.

#### **Calculation of Monetary Award:**

Rent arrears for April and May 2014	1800.00
Filing fee	50.00
Total Monetary Order to Landlord	1850.00

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 08, 2014

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**Residential Tenancy Branch**

