



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR RR MNDC FF

### **Introduction:**

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

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent and rental loss;
- b) An Order of Possession pursuant to sections 46 and 55; and
- c) An order to recover the filing fee pursuant to Section 72.

This hearing also dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- d) To cancel a Notice to End Tenancy for unpaid rent; and
- e) To allow the tenant more time to make this Application.

### **SERVICE**

The tenant did not attend. The landlord gave sworn evidence that the Notice to End Tenancy dated May 21, 2014 was served by posting it on the door and the Application for Dispute Resolution by registered mail. It was verified online as successfully delivered. The landlord said she also received the tenant's Application by registered mail. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

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

Has the landlord proved on the balance of probabilities that rent is owed and they are entitled to an Order of Possession and a monetary order for rental arrears and to recover the filing fee for this application?

Or has the tenant entitled to any relief?

### **Background and Evidence:**

The tenant did not attend. The landlord was given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in

June 1, 2013, that rent is \$1000 a month and a security deposit of \$500 was paid on June 15, 2013. The landlord gave evidence the tenant has not paid rent for March (\$500) and for April to July (\$1000 month x 4). The tenant made an Application on May 29, 2014 to say they had been told not to pay rent due to a cockroach infestation by a neighbour and they dispute the amounts owing (no details of dispute recorded).

The landlord requests an Order of Possession and a monetary order for rental arrears and loss of \$4500 plus recovery of the filing fee.

In evidence is the Notice to End Tenancy for unpaid rent, the lease and a registration receipt.

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

### **Analysis**

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord has satisfied the onus. I found the landlord's evidence credible that the tenants have failed to pay rent of \$4500 from March to July 2014; I found she gave evidence in a straightforward manner and described the tenancy and problems in detail.

I find the landlord entitled to an Order of Possession and a monetary order for \$4500 plus the filing fee.

The landlord has not requested to retain the security deposit to offset the amount owing so it will remain in trust to be dealt with after the tenant vacates according to the provisions in section 38 of the Act.

I find insufficient evidence to support the tenant's Application. Although the tenant contended on their application they had been told not to pay rent and disputed the amounts, they provided no details or evidence of their dispute and did not attend the hearing to support their written statement.

### **Conclusion:**

I dismiss the application of the tenant in its entirety without leave to reapply and I find they are not entitled to recover filing fees for the application.

I find the landlord entitled to an Order of Possession effective two days from service and also to a Monetary Order for \$4550 (\$4500 rent arrears/loss plus \$50 filing fee). The

Orders are enclosed. The security deposit of the tenant remains in trust to be dealt with according to section 38 of the Act after the tenant has vacated.

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 15, 2014

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Residential Tenancy Branch

