



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for an order of Possession for unpaid rent and a Monetary Order for unpaid rent; and, authorization to retain the security deposit and pet damage deposit. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

### Issue(s) to be Decided

1. Is the landlord entitled to an order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent?
3. Is the landlord authorized to retain the security deposit and pet damage deposit?

### Background and Evidence

The tenancy commenced August 15, 2012 and the tenant paid a security deposit of \$360.00 and a pet damage deposit of \$360.00. The tenant is required to pay rent of \$720.00 on the 1<sup>st</sup> day of every month.

It was undisputed that the tenant failed to pay rent for May 2014 or June 2014; however, the tenant had a \$4.00 credit as a result of overpaying rent for April 2014. The landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent on June 2, 2014 with a stated effective date of June 2, 2014 indicating rent of \$1,436.00 was outstanding (the Notice). The tenant did not pay the outstanding rent and did not file an Application to dispute the Notice.

The tenant explained that she had suffered from financial set-backs in recent months but her financial outlook is looking better. The tenant was also hoping to do work on the

landlord's property in lieu of paying rent. The tenant proposed a payment plan to the landlord during the hearing but the landlord was not agreeable to the tenant's proposal.

### Analysis

Under the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement even if the landlord has violated the Act, regulations or tenancy agreement; unless, the tenant has a legal right to withhold rent. I was not provided any evidence to suggest the tenant had a legal right to withhold rent.

Where a tenant does not pay rent the landlord is at liberty to issue a 10 Day Notice to End Tenancy for Unpaid Rent. When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I accept the evidence before me that the landlord served the tenant with a 10 Day Notice on June 2, 2014. I note that the stated effective date on the Notice is incorrect meaning it automatically changes to read June 12, 2014 pursuant to section 53 of the Act.

Since the tenant did not pay the outstanding rent or dispute the Notice within five days of receiving the Notice I find the tenancy ended on June 12, 2014 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Based upon the undisputed evidence before me, I find the landlord entitled to recover unpaid rent of \$1,436.00 for the months of May and June 2014. I also award the landlord the \$50.00 filing fee paid for this application.

I authorize the landlord to retain the tenant's security deposit and pet damage deposit in partial satisfaction of the rent owed the landlord.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

Unpaid Rent: May and June 2014	\$1,436.00
Filing fee	50.00
Less: security deposit and pet damage deposit	<u>(720.00)</u>
Monetary Order	\$ 766.00

To enforce the Monetary Order it must be served upon the tenant and it may be filed in Provincial Court (Small Claims) to enforce as an Order of the court if necessary.

### Conclusion

The landlord has been provided an Order of Possession effective two (2) after service upon the tenant. The landlord has been authorized to retain the tenant's security deposit and pet damage deposit in partial satisfaction of the unpaid rent and has been provided a Monetary Order for the balance of \$766.00 to serve and enforce as necessary.

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 24, 2014

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Residential Tenancy Branch

