



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR FF

### **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;
- c) To retain the security deposit to offset the amount owing; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend. The landlord gave sworn testimony that the Notice to end Tenancy dated June 1, 2014 and the Application for Dispute Resolution were served personally on the tenant. 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 June 1, 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:**

The tenant did not attend although served with the Application/Notice of Hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The landlord testified that tenancy commenced on November 1, 2013, rent is \$1200 a month and a security deposit of \$600 was paid in November 2013. The landlord testified that the tenant is in rent and utility arrears of \$9006.88 as of August, 2014 but the landlord claimed only \$5,000 on his Application. He testified that he intends to apply for any further amounts after the tenant vacates.. He accounted for the arrears as follows: \$300 was owed for February, 2014 and \$1200 for each of the months March to August 2014 plus \$1243.77 in utilities.

In evidence is the Notice to End Tenancy, and a utility ledger. On the basis of the documentary and 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.

### **Monetary Order**

I find that there are rental arrears and loss in the amount of \$9006.88 representing rental arrears and loss to August, 2014. However, according to the principles of Natural Justice, a person must be informed of the full monetary claim against them and the landlord only claimed \$5,000 on this application. Therefore, I find the landlord limited to a monetary order of \$5000 on this application. The security deposit will be retained to offset the amount owing. I give the landlord leave to reapply for further amounts owing after the tenant has vacated.

## **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 retain the security deposit and to recover filing fees paid for this application. I give the landlord leave to reapply for further amounts owed.

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

Rent and utility arrears to June 30, 2014 ( $\$300 + 4 \times \$1200 + 1243.77 = \$6343.77$ ) but limited to claim amount \$5000	5000.00
Filing fee	50.00
Less security deposit (no interest 2013-14)	-600.00
Total Monetary Order to Landlord	4450.00

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: August 07, 2014

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Residential Tenancy Branch

