



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *OPR, MNR, MT, CNR, FF*

### **Introduction**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel a notice to end tenancy and for additional time to make this application.

The notice of hearing was served on the tenant on August 15, 2014 in person. Despite having been served the notice of hearing and having made application for dispute resolution, the tenant did not attend the hearing and therefore the tenant's application is dismissed. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

### **Background and Evidence**

The tenancy started in February 2011. Neither party filed copies of the tenancy agreement or the notice to end tenancy. The landlord testified that the notice to end tenancy for non payment of rent was served on the tenant on May 01, 2014. The tenant disputed the notice by making application on July 17, 2014.

The tenant requested additional time to make application to dispute the notice, but did not file any evidence to indicate exceptional circumstances for not applying within the legislated time frame of five days.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on May 01, 2014 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make 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. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

During the hearing the landlord indicated that he was only seeking an order of possession. Accordingly, at his request I am granting him an order of possession and dismissing his application for a monetary order with leave to reapply.

### **Conclusion**

I grant the landlord an order of possession effective **two days after service** on the tenant.

The tenant's application is dismissed.

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: September 18, 2014

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Residential Tenancy Branch

