



# Dispute Resolution Services

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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:**

Both parties attended and agreed the Notice to end Tenancy dated August 19, 2014 was served by posting it on the tenant's door and the Application for Dispute Resolution by registered mail. I find that the tenant was legally 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 August 19, 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 tenants testified that tenancy commenced in March 1996, rent is now \$700 a month and a security deposit of \$337.50 was paid in March 1996. The landlord testified and the tenants agreed that they are in rent arrears of \$1050 as of today's date. Apparently one of the tenants, N. M., has not been paying his share of the rent while the other tenant, M.G., has had his rent submitted directly from the Ministry.

However, the landlord made an offer of settlement to the tenants and after conferring with their advocate, they accepted as follows:

**Terms of Settlement Agreement:**

- 1. The tenants agree to vacate by October 31, 2014 and the landlord will receive an Order of Possession effective on that date.**
- 2. The landlord agrees she will forgive the outstanding rent and not require a monetary order and in lieu of returning the security deposit, she will return the cheque for \$350 to the Ministry of Employment Assistance which has been sent to her for the tenant, M.G.'s November rent.**

I declined to hear complaints of the tenants as I find they are irrelevant to the issue. On the basis of the solemnly sworn evidence, 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 October 31, 2014 pursuant to the above noted settlement agreement.

**Monetary Order**

Pursuant to the above noted agreement, I find the landlord is not entitled to a monetary order for the arrears.

**Conclusion:**

I find the landlord is entitled to an Order of Possession effective October 31, 2014. No filing fee is awarded as the landlord decided not to request a monetary order pursuant to the above noted settlement.

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: October 23, 2014

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Residential Tenancy Branch

