



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OP MNR MNDC FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The hearing was conducted by conference call. The landlord and the tenant called in and participated in the hearing.

### Issues

Is the landlord entitled to an order of possession?  
Is the landlord entitled to a monetary order?

### Background and Evidence

This tenancy began approximately one year ago. The landlord did not provide a written tenancy agreement and apparently there is no written agreement. The monthly rent is \$650.00 due on the first day of each month. In his application the landlord claimed that the tenant last paid rent in June. He claimed that there is \$450.00 owed for June and the full amount of \$650.00 for each month thereafter for a total including November of \$3,700.00. On September 17, 2014 the landlord personally served the tenant with a 10 day Notice to End Tenancy for unpaid rent. At the hearing the tenant acknowledged that she received the Notice. The Notice claimed that the tenant failed to pay rent that was due on September 1, 2014 in the amount of \$2,400.00. The Notice required the tenant to move out of the rental unit by September 27<sup>th</sup>. The landlord did not provide any records to show what rent payments he has received from the tenant. He said that he has received cash payments but he did not provide receipts because they were left under his door. The landlord said that he received irregular payments of less than the full amount of rent. The tenant said that she made a rent payment of \$450.00 on October 12<sup>th</sup>. According to the tenant she previously paid \$200.00 for September's rent and this was payment of the balance of the rent for September. She said that she has not paid rent for October or for November because the landlord started this proceeding and she was unwilling to pay the rent when the landlord has made a claim for what she said is more than the amount of rent that is due. The tenant said that he has the rent for October and November to give to the landlord. The tenant said that she did not file an application to dispute the Notice to End Tenancy because she thought she could dispute the Notice by attending this hearing.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. This was clearly stated on the Notice to End Tenancy delivered to the tenant. The tenant may have disagreed with the amount stated on the Notice to End Tenancy, but it was up her to apply to dispute the Notice to End Tenancy. The tenant did not apply to dispute the 10 day Notice to End Tenancy and she is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order* – Based on the evidence presented at the hearing by the tenant as to rent payments and in the absence of any records from the landlord, I find that the tenant has not paid rent for October and November and I find that the landlord has a total monetary claim of \$1,300.00 for the outstanding rent for October and November. All other claims for unpaid rent are dismissed without leave to reapply. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,350.00 and I grant the landlord an order under section 67 in the said amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: November 12, 2014

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Residential Tenancy Branch

