



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      opr, mnr, mnsd, ff

### Introduction

The landlord has applied for dispute resolution of a dispute in the tenancy at the above noted address, and requests an Order of Possession, a Monetary Order; and an order to retain the security deposit.

The tenant did not attend the hearing. I accept that the tenant was properly served with the Application for Dispute resolution hearing package by way of registered mail, and the 10 day Notice to End Tenancy by way of posting.

### Issues to Be Decided

- Is the Notice to End Tenancy served upon the tenant effective to end this tenancy, and entitle the landlord to an Order of Possession?
- Is there rent money due and payable by the tenant?
- If so, is the landlord entitled to retain the deposit in partial satisfaction of the amount owing?

### Background and Evidence

This tenancy began on August 26, 2011. Rent is due on the 1<sup>st</sup> day of each month in the amount of \$740.00. A security deposit of \$370.00 was paid at the start of the tenancy. The landlord served the tenant with a 10-Day Notice to End Tenancy, after not receiving rent for the month of November. The tenant did not pay the rent or apply for dispute resolution within the required five days of receiving the Notice to End Tenancy. There are now rental arrears of \$1,480.00 for November and December owing to the landlord.

### Analysis

In the absence of the required rental payment, or a dispute of the notice within the 5 day period set out in the Notice, the tenant is conclusively presumed to have accepted the end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act. As the effective date of the Notice has passed, the landlord has established a right to possession.

The landlord is entitled to recover the rental arrears and filing fee from the tenant, and to retain the security deposit in partial satisfaction of the award.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective 48 hours following service upon the tenant. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord is entitled to an award of \$1,530.00, representing the rental arrears and the filing fee. The security deposit including accrued interest to the date of this hearing, totals \$370.00. I order, pursuant to section 38(1)(d) that the full amount of the deposit be retained, in partial satisfaction of the monetary award noted above. I further order that the remaining balance of the award due to the landlord, equalling \$1,160.00, be paid immediately.

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: December 18, 2014

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Residential Tenancy Branch

