



# 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; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

Both parties attended and the tenant agreed he received the Notice to end Tenancy dated Nov. 17, 2014 posted on his door and the Application for Dispute Resolution. 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 November 17, 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 undisputed evidence is that the tenant commenced living in the premises in February 2013, a security deposit of \$550 was paid and rent is currently \$550 a month for his portion of the rent; there is another tenant who also pays \$550. The landlord said that \$250 as noted on the ten day Notice is still owing plus no rent has been paid for December or January. The tenant agreed with these calculations. The landlord is claiming the rental arrears of \$800 on the Application and requests an amendment to the application to retain the security deposit to offset the amount owing.

The landlord did not submit a copy of the 10 day Notice to End Tenancy and I instructed him to send it by fax to the office as this evidence is needed. He is to obtain a copy

from the tenant today and do that as he did not keep a copy. He agreed to have the Order of Possession effective January 15, 2015. On the basis of the 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 January 15, 2015 as agreed by the landlord.

#### **Monetary Order**

I find that there are rental arrears in the amount of \$800 representing rental arrears from to the end of December 2014. I give the landlord leave to reapply for further amounts owed. The amendment to retain the security deposit to offset the amount owing is granted.

### **Conclusion:**

I find the landlord is entitled to an Order of Possession effective January 15, 2015 and a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the rental amount owing and to recover filing fees paid for this application. I give him leave to reapply for further amounts owed.

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

Rental arrears to December 31, 2014	800.00
Filing fee	50.00
Less security deposit (no interest 2014)	-550.00
Total Monetary Order to Landlord	300.00

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: January 08, 2015

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Residential Tenancy Branch

