



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR; MNR; MNDC; FF

### **Introduction**

This is the Landlord's application for an Order of Possession and Monetary Order for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

The Landlord testified that she hand delivered the Notice of Hearing package and copies of her documentary evidence to the Tenant on December 18, 2014. The Tenant acknowledged receipt of the documents.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession and a Monetary Order for unpaid rent and loss of revenue?

### **Background and Evidence**

Monthly rent is \$1,800.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$900.00 on or about the month of October, 2013.

The Landlord served the Tenant with a 10 Day Notice to End Tenancy on December 5, 2014, by hand delivering the Notice to the Tenant at the rental unit. A copy of the Notice was provided in evidence.

The Tenant paid \$900.00 towards the unpaid rent on December 18, 2014. The Landlord have him a receipt for "use and occupancy only", a copy of which was provided in evidence.

The Tenant did not dispute that he owes rent. He stated that he wished to reach an agreement to pay all the outstanding rent by "the end of March, 2014", or to be allowed more time to move. The Landlord stated that she was not interested in coming to an agreement and that she was in arrears with her mortgage.

The Landlord asked to apply the security deposit towards her monetary award.

The Landlord seeks a monetary award, calculated as follows:

Rent for September, October, November, December, 2014	\$7,200.00
Loss of revenue for January, 2015	\$1,800.00
Less amount paid on December 1, 2014	-\$500.00
Less amount paid on December 18, 2014	<u>-\$900.00</u>
TOTAL	<b>\$7,600.00</b>

### **Analysis**

I find that the Tenant was served with the Notice to End Tenancy on December 5, 2015. I accept the evidence before me that the Tenant failed to pay the rent owed in full within the 5 days granted under Section 46 (4) of the Act.

Based on the foregoing, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on December 15, 2014. Therefore, I find that the Landlord is entitled to an Order of Possession.

The Tenant agreed that he owes the rent and that he has not paid anything towards January's rent. Therefore, I find that the Landlord is entitled to a monetary award as sought.

Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the security deposit towards partial satisfaction of her monetary award.

The Landlord has been successful in her application and I find that she is entitled to recover the cost of the \$100.00 filing fee from the Tenant.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Monetary award	\$7,600.00
Recovery of filing fee	\$100.00
Less set off of security deposit	<u>-\$900.00</u>
TOTAL	<b>\$6,800.00</b>

### **Conclusion**

Pursuant to the provisions of Section 55 of the Act, I hereby provide the Landlord with an Order of Possession effective **two days after service** of the Order upon the Tenant. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

Pursuant to the provisions of Section 67 of the Act, I hereby provide the Landlord with a Monetary Order in the amount of **\$6,800.00** for service upon the Tenant. This Order may be filed in the Provincial Court (Small Claims) 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: January 14, 2015

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Residential Tenancy Branch

