



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MDSD & FF

### Introduction

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant by posting on December 17, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the tenant by mailing, by registered mail to where the tenant resides on January 7, 2015. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on September 1, 2013. The present rent is \$1550 per month payable on the

first day of each month. The tenant paid a security deposit of \$775 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of December and January and the sum of \$3100 remains outstanding.

The tenant vacated the rental unit on or about January 21, 2015 after the tenant's application to cancel the 10 day Notice to End Tenancy was dismissed and the arbitrator granted an Order for Possession in another hearing that was held a short time ago.

Analysis - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the landlord has regained possession.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of December and January and the sum of \$3300 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I granted the landlord a monetary order in the sum of \$3300 plus the sum of \$50 in respect of the filing fee for a total of \$3350.

Security Deposit

The Application for Dispute Resolution does not seek to keep the security deposit. However section 72(2) of the Residential Tenancy provides as follows:

**Director's orders: fees and monetary orders**

**72** (2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

...

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

The landlord requested that I apply the security deposit to the monetary order. I determined the security deposit totals the sum of \$775. **I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$2575.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: January 26, 2015

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Residential Tenancy Branch

