



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WILLOW POINT REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, OPR

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord that originally began under the Direct Request process.

The Arbitrator in the first instance determined that the matter should be heard as a participatory hearing and made an Interim Decision adjourning the Direct Request to the present hearing, conducted by myself. The Interim Decision should be read in conjunction with this Decision.

The Application requested an order of possession and a monetary order based on unpaid rent.

Only an Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified that they served the Tenant with the Notice of this hearing by putting it on the door of the rental unit on or about December 12, 2014. The Agent testified that at the time they served the Notice of Hearing the Tenant was still in the rental unit. Under the rules of procedure the Tenant is deemed to have received the Notice of Hearing three days after posting to the door. Despite this the Tenant did not appear at the hearing. I find the Tenant has been duly served with the Notice of Hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matters

The Agent testified that the Tenant vacated the rental unit on or about December 30, 2014, and therefore, an order of possession is no longer required. I dismiss this portion of the Landlord's claims.

I allowed the Landlord to amend their Application at the hearing to include requests for December 2014 rent, to keep the balance of the security deposit and to claim for the filing fee for the cost of the Application, pursuant to section 64 of the Act.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to monetary relief?

### Background and Evidence

This tenancy began in January 2013, with the parties entering into a written tenancy agreement. The rent was \$600.00 per month, payable on the first day of each month. At the outset of the tenancy the Tenant paid a security deposit of \$300.00.

The Agent testified that the Tenant had a history of paying rent late or not at all in certain months throughout the tenancy. The Agent testified they only sent in the most recent Notices to End Tenancy.

Based on the affirmed testimony and the evidence before me, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on September 9, on October 7, and again on November 4, all in 2014.

I have heard the testimony of the Agent for the Landlord regarding the amounts that were due and owing by the Tenant, as well as payments that were made and deductions taken from the security deposit. I am satisfied with the testimony and the account ledger evidence that as of November 4, 2014, the Tenant owed \$1,018.06 in rent.

The Agent testified that the Tenant gave the Landlord permission to make deductions from the security deposit during the tenancy, in order to cover rent shortfalls. As of the date of this hearing the total amount left of the security deposit is \$30.00.

The Agent testified that the Tenant did not pay any rent for December 2014 as well.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Although the Landlord is entitled to an order of possession in these circumstances, the Tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant have failed to pay rent under the Act and tenancy agreement.

I find the Landlord has established a total monetary claim of **\$1,668.06**, comprised of the balance of rents of \$1,018.06 owed up to November 2014, the rent of \$600.00 for December of 2014, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord may retain the security deposit balance of **\$30.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,638.06**.

This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

#### Conclusion

The Tenant failed to pay rent and did not file to dispute the Notices to End Tenancy, and vacated the rental unit. Therefore, an Order of Possession is not required.

The Landlord may keep the balance of the security deposit and is granted a monetary order for the balance due from the Tenant for rent in the amount of \$1,638.06.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: January 12, 2015

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Residential Tenancy Branch

