



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

Dispute codes      OP MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not appear although she was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on January 16, 2015.

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

This tenancy began on June 15, 2013. The rent is \$1,150.00 due in advance on the first day of each month. The tenant paid a security deposit of \$575.00 at the start of the tenancy. The tenant did not pay rent for January when it was due. On January 5, 2015 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent sending a copy to the tenant by registered mail. Pursuant to section 90 of the *Residential Tenancy Act* the Notice to End Tenancy was deemed to have been received by the tenant on January 10, 2015. The tenant did not pay the outstanding rent within five days of receiving the Notice to End Tenancy and she did not file an application to dispute the Notice to End Tenancy. The tenant paid the landlord the sum of \$1,147.08 by deposit to her bank account on January 20, 2014. The landlord testified that the tenant paid a further \$807.08 on or about January 30<sup>th</sup>. The tenant has made no other

payments. The landlord claimed that there is currently \$345.84 owed for February rent. Is unwilling to continue the tenancy and is prepared to accept the partial payment of rent for February “for use and occupancy only”. The landlord requested a monetary award for the unpaid rent and for an order for possession to be effective February 28, 2015.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does not dispute the Notice to End Tenancy and fails to pay the rent in full within the five day period, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective February 28, 2015, after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order and Security Deposit* - I find that the landlord has established a total monetary claim of \$345.84 for the outstanding rent for February. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$395.84. I order that the landlord retain the said sum from the deposit that she holds, leaving a deposit balance of \$179.16 to be dealt with in accordance with the *Residential Tenancy Act* at the end of the tenancy.

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: February 05, 2015

---

Residential Tenancy Branch

