



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC MNR MNSD MNDC FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain an Order of Possession for cause of repeated late payment of rent pursuant to section 47;
- b) For a Monetary Order for rent and/or utilities unpaid;
- c) To retain the security deposit to offset the amount owing; and
- d) To recover the filing fee for this application.

Service:

The Notice to End Tenancy is dated January 12, 2015 to be effective February 28, 2015 and the tenant confirmed it was served personally and the Application for Dispute Resolution by registered mail. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that there is good cause to end the tenancy pursuant to section 47 and they are entitled to an Order of Possession and a monetary order for outstanding rent and/or utilities. Or is the tenant entitled to any relief? Is the landlord entitled to recover the filing fee?

### **Background and Evidence**

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced about 5 years ago in April 2010, it is now a month to month tenancy, rent is \$650 a month and a security deposit of \$325 was paid in April 2010. The landlord served a Notice to End Tenancy pursuant to section 47 of the Act because the tenant is persistently late in paying rent. The landlord provided as evidence three 10 day Notices to End Tenancy dated August and December 2014 and January 2015. The landlord requests an Order of Possession.

The landlord said the tenant had paid outstanding rent to date but owed \$125 for utilities and requests a monetary order for that amount. The tenant did not dispute the amount owing. He said he had problems with the Ministry and his payments and needed an eviction order to obtain his rent.

Included with the evidence are the section 47 Notice to End Tenancy, three section 46 Notices, the tenancy agreement and some utility bills.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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**Analysis:**

The onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant pursuant to section 47. I find the evidence of the landlord credible that the tenant has been late in paying rent at least three times as the landlord supported his oral evidence with three other Notices to End Tenancy. The tenant also did not dispute the landlord's evidence. I find the landlord entitled to an Order of Possession effective February 28, 2015 when the tenancy is at an end.

I find the landlord also entitled to a monetary order for \$125 for unpaid utilities. The tenant did not dispute this amount is owed.

**Conclusion:**

I find the landlord entitled to an Order of Possession effective February 28, 2015 and to recover \$175 (\$125 utilities plus \$50 filing fee). I find the landlord entitled to retain a portion (\$175) of the security deposit to offset the amount owing. The balance of the security deposit which is \$150 will remain in trust for the tenant to be dealt with pursuant to section 38 of the Act after the tenant vacates.

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 10, 2015

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Residential Tenancy Branch

