



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CONDOR PROPERTIES LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent and utilities, for a Monetary Order for unpaid rent and utilities, for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application. The landlord withdrew this last section of their claim.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served in person to the tenant on February 25, 2015

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a monetary Order to recover unpaid rent?

### Background and Evidence

The landlord testifies that this month to month tenancy for a year started on March 01, 2014. Rent for this unit is \$950.00 per month. Rent is due on the first of each month. The tenant failed to pay the security deposit.

The landlord testified that the tenant has failed to pay all the rent each month since the September, 2014. The tenant paid \$200.00 in September, 2014 leaving an unpaid balance of \$750.00 and no rent has been received for October, November, December or January. The tenant now owes rent of \$4,550.00. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent on January 28, 2015. This Notice was served in person to the tenant. This Notice states that the tenant owes rent of \$4,550.00 that was due on January 01, 2014. The tenant had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on February 07, 2014. The tenant did not pay the outstanding rent or dispute the Notice within five days. Since that time the tenant has also failed to pay all the rent for February and March but the landlord does not seek to amend their claim at this time. The landlord seeks a Monetary Order to recover unpaid rent of \$4,550.00.

The landlord testified that the tenant has failed to pay utilities since the start of the tenancy. The utilities are not included in the rent and were supposed to have been put in the tenant's name. When the landlord received the first utility bill in May, 2014 this was passed onto the tenant with a written demand for payment within 30 days. This first bill was not paid by the tenant and the landlord paid \$314.79. The second utility bill was also received by the landlord for the period of April to June, 2014. This was for \$516.24. This bill was also sent to the tenant with a written demand for payment. The tenant did not pay this bill either and the landlord had to pay it. A copy of the bills have been sent a second time to the tenant to remind the tenant that these amounts are outstanding. The landlord seeks to recover the amount of \$831.03 from the tenant and seeks to amend this portion on their claim.

The landlord seeks for an Order of Possession to take effect within two days of service and seeks to recover the filing fee of \$50.00 from the tenant.

### Analysis

Section 26 of the *Act* states:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently I am satisfied with the undisputed evidence before me that the tenant has failed to pay rent to an amount of **\$4,550.00**. The landlord is entitled to a Monetary Order for this amount pursuant to s.67 of the *Act*.

I am satisfied from the evidence before me that the tenant failed to pay utilities as required to an amount of \$831.03. I therefore will allow the landlord to amend the monetary portion of their claim to include this amount and have included the amount of **\$831.03** on the Monetary Order pursuant to s. 67 of the *Act*.

I have reviewed all documentary evidence and accept that the tenant has been served with Notice to End Tenancy pursuant to section 88 of the *Residential Tenancy Act*. The Notice is deemed to have been received by the tenant on January 28, 2015. The Notice states that the tenant has five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the outstanding rent within five days nor did the tenant apply to dispute the Notice to End Tenancy within five days.

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 the effective date of the Notice and grant the landlord an order of possession pursuant to section 55 of the *Act*.

As the landlord's claim has merit I find the landlords are entitled to recover the filing fee of **\$50.00** from the tenant pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$5,431.03** comprised of the unpaid rent and filing fee. The Order must be served on the Respondent and is enforceable through the Provincial Court as an Order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlords effective **two days** after service on the tenant. This Order must be served on the Respondent and may be filed in the Supreme 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: March 17, 2015

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Residential Tenancy Branch

