



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR  
                                 MT, CNR

### Introduction

This hearing was convened by way of conference call concerning applications made by the landlord and by the tenant. The landlord has applied for an Order of Possession and a monetary order for unpaid rent or utilities; and the tenant has applied for more time to dispute a notice to end tenancy and for an order cancelling a notice to end tenancy for unpaid rent or utilities.

The landlord attended the hearing, gave affirmed testimony and both parties provided evidentiary material in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and despite having made an application scheduled to be heard with the landlord's application, the tenant did not attend. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord. The landlord testified that the landlord's documentation was served on the tenant by registered mail on March 3, 2015 and orally provided a tracking number assigned by Canada Post. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Since the tenant has not attended the hearing, the tenant's application is dismissed without leave to reapply.

All evidence and testimony of the landlord has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?

- Has the landlord established a monetary claim as against the tenant for unpaid rent?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on August 1, 2014 and expires on July 31, 2015 and then reverts to a month-to-month tenancy. Rent in the amount of \$1,100.00 per month is payable in advance on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$550.00 as well as a pet damage deposit in the amount of \$550.00, both of which are still held in trust by the landlord. A copy of the tenancy agreement has been provided. The rental unit is a townhome in a complex containing 12 units.

The landlord further testified that the tenant fell into arrears of rent in February, 2015 and on February 15, 2015 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by attaching it to the door jam of the rental unit. A copy of the notice has been provided and it is dated February 15, 2015 and contains an expected date of vacancy of February 25, 2015 for unpaid rent in the amount of \$750.00 that was due on February 1, 2015. The tenant did not pay any rent on March 1, 2015, and on March 6, 2015 the landlord received a partial payment by way of an e-mail transfer. The tenant is still in arrears of rent the sum of \$950.00 to the end of March, 2015.

The landlord will not have any difficulty re-renting the rental unit.

The landlord seeks an Order of Possession and a monetary order in the amount of \$950.00.

### Analysis

I have reviewed the evidentiary material, and I am satisfied that the tenant was served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, which is deemed to have been served on February 18, 2015. The *Residential Tenancy Act* states that a tenant has 5 days to pay the rent in full or dispute the notice, and if the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the rental unit by the effective date contained in the notice, which must be no less than 10 days after service. The *Act* also states that incorrect effective dates contained in a notice to end a tenancy are changed to the nearest date that complies with the *Act*, which I find is February 28, 2015. The tenant did not pay the rent, but did dispute the notice. Since the tenant's application has been dismissed for failure to attend this hearing, I find that the tenant is conclusively presumed to have

accepted the end of the tenancy and the landlord is entitled to an Order of Possession on 2 days notice to the tenant.

I am also satisfied that the tenant was in arrears of rent the sum of \$750.00 on February 15, 2015 and that another \$1,100.00 became due on March 1, 2015, leaving a balance due to the landlord of \$1,850.00. The tenant paid a portion, and I find that the landlord has established a monetary claim for the difference of \$950.00.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

The landlord has not applied to keep the security deposit or pet damage deposit and I leave it to the parties to deal with both deposits in accordance with the *Residential Tenancy Act*.

### Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,000.00.

These orders are final and binding and may be enforced.

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: April 01, 2015

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Residential Tenancy Branch

