



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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; for a Monetary Order for unpaid rent; 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.

At the outset of the hearing the landlord withdrew his application for a Monetary Order for money owed or compensation for damage or loss and to recover the filing fee.

The hearing documents were served, by the landlord to the tenant, by posting them to the tenant's door on March 17, 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 for unpaid rent?

### Background and Evidence

The landlord testified that this month to month tenancy started on October 20, 2014. Rent for this unit is \$600.00 per month and is due on the 1<sup>st</sup> of each month.

The landlord testified that the tenant paid rent for November's late on December 06, 2014. Since that time no further rent has been received from the tenant. The landlord served the tenant with a 10 Day Notice to End Tenancy for unpaid rent by posting it to the door of the rental unit on February 08, 2015. This Notice informed the tenant that they owe rent of \$1,800.00 and they have five days to either pay the rent or dispute the Notice or the tenancy will end on February 21, 2015. The landlord testified that since serving that Notice the tenant has failed to make any further rent payments for March or April, 2015. The landlord testifies that at present the tenant owes \$3,000.00.

The landlord seeks an Order to recover the unpaid rent and seeks an Order of Possession to take effect as soon as possible.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with Notice to End Tenancy as declared by the landlord. The Notice is deemed to have been received by the tenant on February 11, 2015. I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

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. As this date has since passed I have issued an Order of Possession to the landlord, effective two days after service upon the tenant.

With regard to the landlord's application for a Monetary Order for unpaid rent; sections 88 and 89 of the *Act* determine the method of service for certain documents. The landlord has applied for a Monetary Order which requires that the landlord serve the tenant as set out under Section 89(1). As the landlord posted the application and Notice of Hearing to the tenant's door, this method of service is not acceptable under section 89(1) of the *Act* when the landlord is making a claim for monetary compensation. Consequently, the landlord's application to recover unpaid rent is dismissed with leave to reapply.

### Conclusion

I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act* effective **two days after service on the tenant**. This Order must be served on the tenant. If the tenant fails to comply with the Order, the Order may be filed in the Supreme Court and enforced as an Order of that Court.

The landlord's claim to recover unpaid rent is dismissed with leave to reapply.

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 21, 2015

---

Residential Tenancy Branch

