



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR FF

### **Introduction:**

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

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) To retain the security deposit to offset the amount owing; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

Both parties attended and the tenant agreed they received the Notice to end Tenancy dated January 29, 2015 taped on the door and the Application for Dispute Resolution personally. I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act.

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

The tenant was issued a Notice to End Tenancy dated January 29, 2015 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

### **Background and Evidence:**

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced in November 2014, a security deposit of \$800 was paid and rent is currently \$1240 a month. It is undisputed that the tenant owes rent for January, February, March and April 2015 and has paid only \$700 on this account. The tenant said he has a shop there and has had hard times but hopes to get more money soon. The landlord was sympathetic to his situation but says he requires the rent money. The landlord is claiming the rental arrears of \$4960 less \$700 paid on account and requests to retain the security deposit to offset the amount owing. The tenant did not dispute the amount

owing. After discussion and negotiation, the parties agreed to the following terms and conditions:

**Settlement Agreement:**

- 1. The tenant agrees to pay \$1240 of the outstanding rent by April 13, 2015 and the landlord agrees to deduct this from the Monetary Order if it is paid.**
- 2. The landlord will receive an Order of Possession effective two days from service which he agrees not to enforce until April 30, 2015 provided the tenant pays \$1240 by April 13, 2015.**
- 3. The tenant agrees to vacate on April 30, 2015.**

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

**Analysis**

**Order of Possession**

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service and the landlord has agreed not to enforce it until April 30, 2015, provided the tenant pays \$1240 of the outstanding rent by April 13, 2015.

**Monetary Order**

I find that there are rental arrears in the amount of \$4260 representing rental arrears from January to April 2015 less \$700 paid on account. I find the landlord entitled to retain the security deposit to offset the amount owing.

**Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the rental amount owing and to recover filing fees paid for this application. If the tenant pays an additional \$1240 as agreed, this must be deducted from the monetary order amount owing.

**Calculation of Monetary Award:**

Rent Arrears and loss from January to April 2015 (\$1240x4)	4960.00
Filing fee	50.00

Less money paid on account	-700.00
Less security deposit (no interest 2014-15)	-800.00
Total Monetary Order to Landlord	<b>3510.00</b>

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 08, 2015

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Residential Tenancy Branch

