



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNR, OPR

### Introduction

This is an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, and a request for a monetary order for outstanding rent totaling \$10,000.00. The applicant is also requesting recovery of the \$100.00 filing fee.

Some documentary evidence and written arguments have been submitted prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

The issues are whether or not the applicant has the right to an Order of Possession, and whether or not the applicant has established monetary claim against the respondents, and if so in what amount.

### Background and Evidence

This tenancy began in 2006, and no security deposit was collected.

The present rent is \$2500.00 per month.

The tenants had failed to pay the February 2015 and March 2015 rent and therefore on March 12, 2015 the tenants were personally served with a 10 day Notice to End Tenancy.

The tenants are still living in the rental unit and have paid no further rent.

The landlords are requesting an Order of Possession for as soon as possible and a monetary order for the outstanding rent and recovery of their filing fee.

The tenants admitted that as of today's date there is a total of \$10,000.00 in rent outstanding, however they are requesting more time to stay in the rental unit because they also have numerous crocodilians species on the property from when they ran a business that included the crocodiles, and they are asking for more time to be able to relocate all the crocodiles and other animals they have on the property.

The landlord is opposed to allowing the tenants any further time because, the fact that the tenants have not been paying the rent has put them in a position where they are having difficulty paying the mortgage on the property. Further the landlord stated that they are willing to allow the tenants to keep their crocodiles and other animals on the property until they are able to relocate them; however they want possession of the residential rental unit so that they can re-rent it and bring in income.

### Analysis

Section 46 of the Residential Tenancy Act states:

**46** (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

(2) A notice under this section must comply with section 52 *[form and content of notice to end tenancy]*.

(3) A notice under this section has no effect if the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from rent.

(4) Within 5 days after receiving a notice under this section, the tenant may

(a) pay the overdue rent, in which case the notice has no effect, or

(b) dispute the notice by making an application for dispute resolution.

(5) If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit to which the notice relates by that date.

In this case the tenants admitted that the rent totaling \$10,000.00 is outstanding and have admitted to receiving the 10 day Notice to End Tenancy.

The tenants did not pay the outstanding rent within the five day grace period, or apply for dispute resolution, and therefore, as stated above, the tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and therefore since that date has already past it is my finding that the landlords to have the right to an Order of Possession for as soon as possible.

Further since the tenants have admitted owing the full \$10,000.00 I will also allow the landlords request for a monetary order for that outstanding rent and recovery of the \$100.00 filing fee.

### Conclusion

I have issued an Order of Possession that is enforceable two days after service on the respondents.

I have issued a monetary order in the amount of \$10,100.00.

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: May 25, 2015

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Residential Tenancy Branch

