



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, utilities and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the monetary claim.

The landlord testified that he served the notice of hearing package on the tenant on July 11, 2015, in person. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession and a monetary order?

### **Background and Evidence**

The tenancy started on January 25, 2015. The monthly rent is \$800.00 due on the first of each month. Prior to moving in, the tenant paid a security deposit of \$400.00. A term in the tenancy agreement requires the tenant to pay 50% of the utilities.

The landlord testified that the tenant owed partial rent for May 2015 (115.00) and June 2015 (\$100.00). The tenant failed to pay rent on July 01, 2015. On July 02, 2015; the landlord served the tenant with a ten day notice to end tenancy for \$1,015.00 in unpaid rent. The tenant did not dispute the notice and continued to occupy the rental unit without paying rent.

The landlord testified that at the time of the hearing the tenant owed the landlord a total of \$1,815.00 in unpaid rent.

The landlord is also claiming the cost of utilities in the amounts of \$93.00 for gas and \$348.00 for hydro. The landlord did not file utility bills or proof of having provided the tenant with copies of the utility bills and a written request to pay.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$2,256.00 for unpaid rent and utilities plus \$50.00 for the filing fee. The landlord is also applying to retain the security deposit of \$400.00 in partial satisfaction of the claim.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on July 02, 2015 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make 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. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I further find that the landlord is entitled to his monetary claim of \$1,865.00 for unpaid rent.

Regarding the landlord's claim for unpaid utilities, section 46(6) of the *Residential Tenancy Act* states as follows:

If a tenancy agreement requires the tenant to pay utility charges to the landlord and the utility charges are unpaid more than 30 days after the tenant is given a written demand for payment of them, the landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

In this case, the landlord did not provide any proof of having given the tenant a written demand for the payment of utilities and therefore this portion of the landlord's application for his claim for the cost of utilities is dismissed with leave to reapply.

Since the landlord has proven his case I award him the recovery of the filing fee. Overall the landlord has established a claim of \$1,815.00 for unpaid rent and \$50.00 for the filing fee for a total claim of \$1,865.00.

I order that the landlord retain the security of \$400.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1,465.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective **two days after service** on the tenant and a monetary order in the amount of **\$1,465.00**.

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: August 19, 2015

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Residential Tenancy Branch

