



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR MNSD FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the 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) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend. The landlord gave sworn testimony that he served the Notice to end Tenancy dated August 7, 2015 personally and the Application for Dispute Resolution by registered mail. It was verified online as successfully delivered. 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 August 7, 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:**

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced about two years ago when this tenant took over from his Mother, a security deposit of \$350 was paid by the Mother about 2010 and rent is currently \$750 a month. It is undisputed that the tenant owes rent of \$45 for August and \$750 for each of August and September 2015. The landlord said the tenant has done at least \$500 in damages also but he provided no documentary evidence of this. He requests an Order of Possession and a Monetary Order and to retain the security deposit to offset the amount owing.

On the basis of the 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.

#### **Monetary Order**

I find that there are rental arrears in the amount of \$1535 representing rental arrears from August to October, 2015. I find insufficient evidence of damage caused by the tenant or of the cost to repair; therefore I dismiss this portion of the landlord's claim and give him leave to reapply.

### **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 give the landlord leave to reapply for further amounts owed within the legislated time limits. 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.

Calculation of Monetary Award:

Rental arrears	1535.00
Filing fee	50.00
Less security deposit (no interest 2009-15)	-350.00
Total Monetary Order to Landlord	1235.00

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: October 08, 2015

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Residential Tenancy Branch

