



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### **Introduction**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notice to end tenancy.

The notice of hearing was served on the tenant on September 25, 2015, by posting the notice on the door of the rental unit. Despite having been served the notice of hearing and having made application for dispute resolution, the tenant did not attend the hearing and therefore his application is dismissed. 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? Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

### **Background and Evidence**

The tenancy started on August 23, 2014. The monthly rent is \$1,600.00 due on the first of each month.

The landlord testified that the tenant was repeatedly late paying rent and failed to pay rent that was due on September 01, 2015. On September 10, 2015, the landlord served the tenant with a ten day notice to end tenancy. The tenant did not dispute the notice in a timely manner. On October 01, the tenant paid rent for September in two cheques of \$800.00 each. The rent cheque for October was returned for insufficient funds.

At the time of the hearing the tenant owed the landlord \$1,600.00 for October 2015. 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 \$1,600.00 for unpaid rent. The landlord is also applying for \$50.00 for the filing fee.

### **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 September 10, 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 find that the landlord is entitled to \$1,600.00 for unpaid rent. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for amount of \$1,650.00. 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 **\$1,650.00**.

The tenant's application is dismissed.

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 28, 2015

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Residential Tenancy Branch

