



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Mountain Village Apartments  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR OPR CNR RP ERP FF MT

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. Although served with the landlord's Application for Dispute Resolution and Notice of Hearing sent by registered mail on October 16, 2015 the tenant failed to attend the conference call hearing. The landlord confirmed that the tenant had in fact picked up the registered mail package.

Today's hearing was also scheduled to deal with the tenant's application for an order extending the time limit for applying to cancel a 10 Day Notice to End Tenancy, an order cancelling the landlord's 10 Day Notice to End Tenancy and an order that the landlord make repairs and emergency repairs to the rental unit. The tenant also requested recovery of the filing fee for his application. However, the tenant did not appear for today's hearing to present his case. As a result, and because the landlord was in attendance to respond to the tenant's case, I dismiss the tenant's application without leave to reapply.

The hearing then proceeded on the landlord's application only.

### Issue(s) to be Decided

Is the landlord entitled to the requested orders?

### Background and Evidence

This tenancy began on August 15, 2015. The rent was \$900.00 due in advance on the first day of each month. A security deposit of \$450.00 was paid at the start of the tenancy. The tenant failed to pay the rent on October 1, 2015. The landlord served the

tenant with a 10 Day Notice to End Tenancy on October 2, 2015. The Notice was posted on the door of the rental unit.

The landlord testified that the tenant paid no rent for October, November or December. The landlord testified that the tenant was removing his belongings from the unit today. The landlord requested that an order of possession be issued effective today's date even though it appeared the tenant was in fact vacating the rental unit.

### Analysis

Order of Possession – Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch.

In the present case, the tenant did dispute the Notice, albeit well outside the time limit for doing so, but then failed to attend the hearing to present his application. As a result, it is as if the Notice had not been disputed at all. The tenant also failed to pay the full amount of the arrears indicated on the Notice. The result of this is that the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

The landlord has requested an order of possession effective as of today's date. I am satisfied that the landlord is entitled to such an order.

Monetary Order – The landlord has made a monetary claim in the amount of \$2,700.00 representing unpaid rent in the amount of \$900.00 per month for each of October, November and December. The landlord testified that no rent has been paid for these months. In the absence of any evidence to the contrary, I am satisfied that the landlord has established this monetary claim.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective December 14, 2015. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order and Security Deposit* - I find that the landlord has established a total monetary claim of \$2700.00 for the outstanding rent for October, November and December. I order that the landlord retain the deposit and interest (\$0.00) of \$450.00 in

partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,250.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenant's application is dismissed without leave to reapply.

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: December 14, 2015

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Residential Tenancy Branch

