



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, 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 a notice to end tenancy and for the recovery of the filing fee.

The notice of hearing was served on the tenant on October 25, 2015 with the help of a police officer. Despite having been served the notice of hearing and having made application for dispute resolution, the tenant did not attend the hearing and therefore the tenant's 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 in December 2012. The current monthly rent is \$800.00 due on the first of each month.

The landlord testified that the tenant failed to pay rent for October 2015 and on October 13, 2015; the landlord served the tenant with a ten day notice to end tenancy. The tenant disputed the notice in a timely manner and continued to occupy the rental unit without paying rent. At the time of the hearing the tenant owed the landlord rent for October, November and December 2015 for a total of \$2,400.00 in unpaid rent.

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 \$2,400.00 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 and in the absence of evidence to the contrary, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on October 13, 2015 and did not pay rent within five days of receiving the notice to end tenancy, 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 \$2,400.00 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 the amount of \$2,450.00. 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 **\$2,450.00**.

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: December 16, 2015

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Residential Tenancy Branch

