



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OP MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The original application was brought as a direct request, but it was adjourned to a participatory hearing because of discrepancies between the names given for the landlord on several documents. The landlord's application was then scheduled to be conducted by conference call. The landlord called in and participated in the hearing. The tenant was served with notice of the new hearing, but she did not attend the hearing.

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

This tenancy began on June 1, 2013. The current rent is \$1,360.00 due in advance on the first day of each month. The tenant paid a security deposit of \$665.00 at the start of the tenancy. The tenant is in arrears of rent and has been served with several Notices to End Tenancy for unpaid rent. On October 14, 2015 the tenant was personally served with a 10 day Notice to End Tenancy for unpaid rent dated October 2, 2015. The Notice to End Tenancy stated that the tenant had failed to pay rent, inclusive of arrears in the amount of \$2,240.00. The tenant has not paid the full amount of the rent and arrears and she did not file an application to dispute the Notice to End Tenancy.

At the hearing the landlord testified that the tenant has agreed to move out of the rental unit at the end of January. She has made some partial payments on account of rent; the current amount outstanding, inclusive of January rent is the sum of \$3,370.00. The landlord requested an order for possession effective January 31, 2016 and a monetary

order for the outstanding rent after application of the tenant's security deposit to reduce the balance.

### Analysis

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. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The tenant has agreed to move at the end of January 2016 and the landlord requested that the order for possession be effective on that date.

### 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 January 31, 2016 after service on the tenant. 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 \$3,370.00 for the outstanding rent for and arrears, inclusive of January rent. I order that the landlord retain the deposit and interest of \$665.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,705.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: January 06, 2016

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Residential Tenancy Branch

