



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding M'Akola Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MT, CNR, OPC, MNDC, FF, O

### Introduction

This hearing dealt with two related applications. One was the tenant's application for orders setting aside a 10 Day Notice to End Tenancy for Non-Payment of Rent and granting her more time in which to make that application. The other was the landlord's application for an order of possession based upon a 1 Month Notice to End Tenancy for Cause and a monetary order. Although served with the landlord's Application for Dispute Resolution and Notice of Hearing by registered mail and despite being an applicant herself, the tenant did not appear.

### Issue(s) to be Decided

- Should an order of possession be granted and, if so, on what terms?
- Should a monetary order be granted and, if so, in what amount?

### Background and Evidence

The three month fixed term tenancy commenced August 1, 2015 and ended October 31, 2015. The written tenancy agreement provided that at the end of the term the tenant was to move out. The monthly rent of \$666.00 is due on the first day of the month. The landlord did not collect a security deposit.

The landlord served the tenant with a 10 Day Notice to End Tenancy for Non-Payment of Rent on November 6, 2015. That was the only Notice to End Tenancy served by the landlord on the tenant.

### Analysis

The landlord appeared at the hearing; the tenant did not. In the absence of an appearance by the tenant by 9:15 am, her application is dismissed without leave to re-apply.

Section 55(1) of the *Residential Tenancy Act* provides that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is

dismissed or the notice to end tenancy is upheld, the arbitrator must grant an order of possession of the rental unit to the landlord. Therefore, I grant the landlord an order of possession effective two days after service on the tenant

The landlord's application for an order of possession based upon a 1 Month Notice to End Tenancy for Cause is dismissed because the landlord never served the tenant with such a notice.

The effect of subsections 89(1) and 89(2) is that an application for dispute resolution claiming a monetary order cannot be served by being posted to the rental unit. All of the methods by which an application for dispute resolution claiming a monetary order may be served are listed in section 89(1). The most common methods are personal service or service by registered mail. The landlord's application for a monetary order is dismissed with leave to re-apply.

As the landlord was unsuccessful on its' application no order for reimbursement from the tenant of the filing fee paid by the landlord will be made.

#### Conclusion

- a. The landlord has been granted an order of possession effective two days after service on the tenant. If necessary, this order may be filed in the Supreme Court and enforced as an order of that court.
- b. The landlord's claim for a monetary order is dismissed, with leave to re-apply.
- c. All other claims are dismissed without leave to re-apply.

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 27, 2016

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Residential Tenancy Branch

