



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 52 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed that she served the tenant with the landlord's application for dispute resolution package ("Application") on January 7, 2016, by way of registered mail. The landlord provided a Canada Post receipt and tracking number with her Application. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's Application on January 12, 2016, five days after its registered mailing.

### Preliminary Issue – Particulars of Landlord's Application

The landlord's Application seeks an order of possession for unpaid rent based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated December 7, 2015 ("10 Day Notice"). The landlord claimed to have served this notice upon the tenant on December 5, 2015, prior to the date of the notice, by way of registered mail. During the hearing, the landlord stated that while some rent was unpaid, she had accepted some rent payments from the tenant after the effective date of the notice of January 1, 2016.

The landlord's Application also seeks a monetary order of \$3,209.50. In the "details of the dispute" box of the landlord's Application, there are two unpaid rent amounts of

\$455.63 each for December 14 and 28, 2015. There is also a note indicating that a balance of \$2,298.24 was due for “partial or non payment of rent and/or utilities from Nov/14-Nov/15.” There is no detailed calculation or breakdown of how the landlord arrived at her figures. In her written evidence, the landlord produced several charts that she created herself, indicating deposits and withdrawals, as well as purchases for liquor, utilities and gas. At the hearing, the landlord indicated that she was seeking a monetary order of \$1,890.83 for unpaid rent and utilities. The landlord was unable to provide testimony during the hearing, confirming a breakdown of the above numbers.

Pursuant to section 59(2)(b) of the *Act*, an application must include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings. The purpose of the provision is to provide the tenant with enough information to know the landlord’s case so that the tenant might defend herself.

I find that the landlord did not sufficiently set out the details of her dispute in such a way that the tenant would have known that she needed to respond to the claim. I also find that the landlord’s testimony and documents relating to the amounts of rent due, when they were due and when they were paid or unpaid, to be unclear and confusing. I provided the landlord with ample time during this lengthy hearing, in order to determine these amounts and provide me with clear testimony, but she failed to do so.

Accordingly, I dismiss the landlord’s Application for an order of possession and a monetary order, with leave to reapply. The landlord’s Application to recover the filing fee paid for her Application is dismissed without leave to reapply. The landlord must bear the cost of this filing fee.

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: February 17, 2016

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Residential Tenancy Branch

