



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession based on unpaid rent, a Monetary Order for unpaid rent and compensation under the *Residential Tenancy Act* (the “Act”), and to recover the filing fee for the Application.

Only the Landlord’s representative, D.D., appeared at the hearing. She gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions to me.

D.D. testified that she served the Tenant with the Notice of Hearing and their Application on February 4, 2016 by registered mail. D.D. confirmed that the package was returned unclaimed on February 28, 2016. Failure or refusal to accept registered mail does not negate service. Under the *Act* documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of March 4, 2016.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

Has the Tenant breached the *Act* or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

### Background and Evidence

Introduced in evidence was a copy of the residential tenancy agreement.

The tenancy began November 10, 2015. Monthly rent was payable in the amount of \$865.00. A security deposit in the amount of \$432.50 was paid at the start of the tenancy. D.D. testified that on December 7, 2015 the Tenant entered into a further agreement with respect to parking such that the Tenant also agreed to pay \$30.00 per month for parking for a total of \$895.00 per month.

D.D. testified that the Tenant failed to pay rent or for parking for the month of January 2016. The Landlord then issued a 10 day Notice to End Tenancy for non-payment of rent on January 5, 2016 indicating the amount of \$895.00 was due as of January 1, 2016 (the "Notice") including \$865.00 for rent and \$30.00 for parking.

Based on the testimony of D.D., I find that the Tenant was served with the Notice on January 5, 2016 by posting to the rental unit door. Section 90 of the *Act* provides that documents served in this manner are deemed served three days later. Accordingly, I find that the Tenant was served with the Notice as of January 8, 2016.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days of service, namely, January 13, 2016. The Notice also explains the Tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

D.D. testified that the Tenant failed to pay the outstanding amount as noted on the Notice and also failed to apply to dispute the Notice. D.D. testified that the Tenant also failed to pay rent or parking for February 2016 and March 2016. In total the Landlord sought the sum of **\$2,785.00** for the following:

Rent for January 2016	\$865.00
Parking for January 2016	\$30.00
Rent for February 2016	\$865.00
Parking for February 2016	\$30.00
Rent for March 2016	\$865.00
Parking for March 2016	\$30.00
Filing fee	\$100.00
<b>TOTAL CLAIMED</b>	<b>\$2,785.00</b>

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the Landlord has established a total monetary claim of **\$2,785.00** as set out above; and accordingly, I grant the Landlord an order under section 67 for the amount due. This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an order of possession and is granted a monetary order for the balance due.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: March 22, 2016

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Residential Tenancy Branch

