



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

On March 29, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession; for a monetary order for unpaid rent or utilities; and to keep the security deposit. The matter was set for a conference call hearing at 10:30 a.m. on this date.

The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord testified that he served the Tenant with Notice of Hearing and his evidence by registered mail sent on March 31, 2016. A Canada Post tracking number was provided as evidence of service. Under section 90 of the Act, mail is deemed served five days after sending. I find that the Tenant has been duly served in accordance with the Act.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issues to be Decided

Is the Landlord entitled to an order of possession due to unpaid rent?  
Is the Landlord entitled to a monetary order to recover unpaid rent?  
Is the Landlord entitled to keep the security deposit towards unpaid rent?  
Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began on December 1, 2014 as a month to month tenancy. Current rent in the amount of \$750.00 is payable on the first of each month. The Tenant paid a security deposit of \$385.00.

The Landlord testified that the Tenant did not pay the rent for the month of March 2016.

The Landlord testified that he served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("the Notice") on the Tenant on March 9, 2016. The Landlord testified that the Tenant was served with the Notice by posting it on his door on March 9, 2016. The Notice states that the Tenant has failed to pay rent in the amount of \$750.00. The

Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the tenant had five days to dispute the Notice.

There is no evidence before me that that the Tenant made an application to dispute the Notice.

The Landlord also testified that the Tenant has not paid the rent owed for April 2016. In addition, the Landlord testified that the Tenant still owes rent money for the following months:

- January 2015, in the amount of \$10.00
- February 2015, in the amount of \$10.00
- January 2016, in the amount of \$20.00

The Landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$1,540.00

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant has not paid the outstanding rent within five days of receiving the Notice, 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, pursuant to section 55 of the Act, 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. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

I find that the tenant owes \$750.00 for March 2016, rent. I also find that the Tenant has not paid rent for the month of April 2016, and the Landlord will suffer a loss of rent for this month. The Tenant is aware that he is required to pay rent each month and therefore, pursuant to section 64 of the Act, I allow the claim to be amended to include one additional month of rent in the amount of \$750.00.

I also find that the Tenant owes \$40.00 for unpaid rent as set out above in this decision.

I order that the Landlord can keep the security deposit in the amount of \$385.00 in partial satisfaction of his claim for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$1,640.00 comprised of \$1,540.00 in unpaid rent for the above mentioned dates and the \$100.00 fee paid by the landlord for this hearing. After offsetting the security deposit towards the claim of \$1,640.00, I find that the Landlord is entitled to a monetary order in the amount of \$1,255.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

### Conclusion

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

I order that the Landlord can keep the security deposit in the amount of \$385.00 in partial satisfaction of his claim.

The Landlord is granted an order of possession effective 2 days after service on the Tenant and I grant a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$1,255.00.

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: April 29, 2016

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Residential Tenancy Branch