



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

On June 8, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession and for a monetary order for unpaid rent or utilities. The matter was set for a conference call hearing.

The Landlord's agent ("the Landlord") attended the teleconference hearing; however, the Tenant did not. The Landlord provided affirmed testimony that he served the Tenant the Notice of Hearing on June 22, 2016, in person by handing it to the Tenant's adult daughter who resides in the rental unit. I find that the Tenant has been duly served with the Notice of Hearing 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?

### Background and Evidence

The Landlord testified that the tenancy began on January 1, 2014, as a month to month tenancy. Rent in the amount of \$880.00 is payable on the first of each month. The Tenant paid the Landlord a security deposit of \$440.00.

The Landlord testified that the Tenant is in arrears for paying the rent. He testified that the Tenant owes rent for the following months:

- June 2015, in the amount of \$440.00
- July 2015, in the amount of \$880.00
- September 2015, in the amount of \$440.00
- October 2015, in the amount of \$440.00
- April 2016, in the amount of \$800.00
- May 2016, in the amount of \$800.00

- June 2016, in the amount of \$800.00
- July 2016, in the amount of \$800.00

The Landlord testified that he served the Tenant a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 31, 2016, ("the Notice") on May 31, 2016. The Landlord testified that the Notice was handed to the Tenant's adult daughter who resides in the rental unit. The Landlord has provided documentary evidence of a Proof of Service document that indicates the Tenants daughter was served in person on May 31, 2016.

The Notice states that the Tenant has failed to pay rent in the amount of \$3,800.00 which was due on May 1, 2016. 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 testified that he has not received any money from the Tenant since the Notice was issued.

The Landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$5,400.00

### 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.

The effective day of the Notice automatically changes under section 53 of the *Act* to be the earliest date that complies with section 46(1) of the *Act*. I find that the Tenant received the Notice on May 31, 2016, and therefore the effective date of the Notice is changed to be June 10, 2016.

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 the Landlord \$5,400.00 for unpaid rent. The Tenant knows she is responsible to pay the rent when it is due, and I allow the Landlord to amend his application to include the rent owing for June 2016 and July 2016.

I find that the Landlord has established a total monetary claim of \$5,400.00. I grant the Landlord a monetary order in the amount of \$5,400.00. This monetary 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 Landlord is granted an order of possession effective 2 days after service on the Tenant and I grant the Landlord a monetary order for the unpaid rent in the amount of \$5,400.00.

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: July 20, 2016

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Residential Tenancy Branch