



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR MNSD FF

### **Introduction:**

Only the landlord attended and gave sworn testimony that she served the 10 Day Notice to End Tenancy on June 2, 2016 by posting it on the door and the Application (and Amendment) for Dispute Resolution personally with a third party witness (a realtor). I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) To retain the security deposit to offset the amount owing; and
- d) An order to recover the filing fee pursuant to Section 72.

### **Issue(s) to be Decided:**

Is the landlord entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

### **Background and Evidence:**

The tenant did not attend although served with the Application/Notice of Hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The landlord testified that tenancy commenced on February 20, 2015 when the tenant moved in early, rent is \$800 a month and a security deposit of \$400 was paid. The landlord testified that the tenant is in rent arrears of \$2700 as of July 2016. She said the tenant did not pay rent for April, May, June or July 2016 but made one payment of \$500 in May. She said this has put her in financial hardship and she needs the tenant to vacate immediately. I advised her to follow the instructions for enforcing an Order of Possession to be found on the Residential Tenancy Branch website.

In evidence is the Notice to End Tenancy, the lease agreement, proof of service, and a registered mail receipt. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

### Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service.

### Monetary Order

I find that there are rental arrears in the amount of \$2700 representing rental arrears to July 2016. I find the landlord entitled to retain the security deposit to offset the amount owing. I give the landlord leave to reapply for damages owed after the tenant has vacated.

### **Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to recover filing fees paid for this application.

Calculation of Monetary Award:

Rent arrears and over-holding rent to July 2016	2700.00
Filing fee	100.00
Less security deposit (no interest 2015-16)	-400.00
<b>Total Monetary Order to Landlord</b>	<b>2400.00</b>

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 21, 2016

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Residential Tenancy Branch