



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ACTION PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

On July 27, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession; a monetary order for unpaid rent; to keep the security deposit and pet deposit; and to recover the cost of the filing fee. The matter was set for a conference call hearing. The Landlord and Tenant attended the hearing and provided affirmed testimony.

The Tenant testified that he has received documentary evidence from the Landlord. The Landlord and Tenant were provided the opportunity to present their 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?  
Is the Landlord entitled to a monetary order for unpaid rent?  
Is the Landlord entitled to keep the Security Deposit and Pet Deposit towards unpaid rent?  
Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord and Tenant testified that the tenancy began as a fixed term tenancy starting on October 9, 2015, to continue until October 31, 2016. Rent in the amount of \$1,300.00 is payable on the first of each month. The Tenant paid the Landlord a \$650.00 security deposit and a \$650.00 pet deposit.

The Landlord testified that the Tenant has not paid all the rent owing for May 2016, and has not paid any rent for the months of June 2016, July 2016, August 2016, and September 2016. The Landlord requested that rent for the month of September 2016, be included in this hearing.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 2, 2016, by posting the Notice to the Tenant's

door. The Landlord provided a proof of service document that the Notice was witnessed being served at 1:30 p.m. on June 2, 2016.

The Landlord is requesting a monetary order in the amount of \$6,272.16 for unpaid rent for the above mentioned months. The Landlord is requesting to retain \$1,300.00 from the Tenant's security deposit and pet deposit in partial satisfaction of the claim.

The Tenant testified that he may have received the Notice but he stated since he has received other Notices he is not entirely sure. The Tenant testified that he acknowledges that he owes the Landlord rent money and he stated that he did not dispute the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 2, 2016.

The Tenant testified that he owes the Landlord rent money for May 2016, June 2016, July 2016, August 2016 and September 2016. The Tenant testified that the company he works for shut down and he has been looking for work. He stated that he just started receiving Employment Insurance benefits.

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.

Section 46 of the Act states that a Landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the Tenant receives the Notice. If a Tenant does not pay the rent or dispute the Notice within 5 days of receiving the Notice, the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice.

### Analysis

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I find that the Tenant did not pay the rent owing to the Landlord or dispute the Notice within 5 days of receiving the Notice.

I find that the Landlord is entitled to an order of possession pursuant to section 46(5) of the Act.

I find that the Tenant owes the Landlord \$6,272.16 for unpaid rent. I have included the Landlord's claim for \$1,300.00 in lost rent for September 2016. The Tenant knows he must pay the rent when it is due and the Landlord has suffered a loss of rent for September 2016.

I order that the Landlord can keep the security deposit and pet deposit in the amount of \$1,300.00 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 pay the Landlord 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 \$6,372.16 comprised of \$6,272.16 in unpaid rent and the \$100.00 fee paid by the Landlord for this hearing. After setting off the security and pet deposit towards the claim of \$6,372.16, I find that the Landlord is entitled to a monetary order in the amount of \$5,072.16. 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 within 5 days of receiving the 10 Day Notice to End Tenancy.

The Landlord is granted an order of possession. The Landlord may keep the pet deposit and security deposits in the amount of \$1,300.00 in partial satisfaction of the claim. The Landlord is granted a monetary order for unpaid rent in the amount of \$5,072.16.

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: September 14, 2016

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Residential Tenancy Branch