



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

On December 20, 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 with the Application for Dispute Resolution and Notice of Hearing, personally at the Tenant's unit on December 22, 2016. I find that the Tenant has been duly served with the Notice of Hearing in accordance with sections 89 and 90 of 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 for unpaid rent?
- Is the Landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The tenancy agreement provided by the Landlord indicates that the tenancy began on September 1, 2016. Rent in the amount of \$1,400.00 is to be paid on the first day of each month. The Landlord testified that the Tenant failed to pay the Landlord a security deposit of \$700.00.

The Landlord served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 21, 2016, by posting the Notice to the Tenant's door.

The Landlord served another 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 2, 2016, by handing it to the Tenant directly on December 2, 2016.

The 10 Day Notices inform the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notices also explain that the Tenant had five days to dispute the Notice.

The 10 Day Notice dated November 21, 2016, states that the Tenant has failed to pay rent in the amount of \$2,100.00 that was due on November 1, 2016. The 10 Day Notice dated December 2, 2016, states that the Tenant has failed to pay \$3,500.00 that was due on December 1, 2016.

The Landlord testified that the Tenant did not pay the rent that is owing under the tenancy agreement within 5 days of receiving the 10 Day Notice.

The Landlord testified that the Tenant has not paid any rent since the Notices to end tenancy were issued.

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

The Landlord testified that the Tenant has not paid the rent for the following months:

| Month         | Amount     |
|---------------|------------|
| October 2016  | \$700.00   |
| November 2016 | \$1,400.00 |
| December 2016 | \$1,400.00 |

The Landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$3,500.00.

### Analysis

Based on the evidence before me, and 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 the Landlord \$3,500 for rent for the above mentioned months.

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 \$3,600.00 comprised of \$3,500.00 in unpaid rent for the above mentioned dates and the \$100.00 fee paid by the Landlord for this hearing. I grant the Landlord a monetary order in the amount of \$3600.00. 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 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.

The Landlord is granted an order of possession, and I grant a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$3,600.00.

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: January 20, 2017

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Residential Tenancy Branch