



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding John Howard Society of the Thompson Region  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MNR, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession for cause, a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord's agent testified that the tenant was served with the Landlord Application for Dispute Resolution and notice of this hearing by posting the hearing package to the door of the rental unit on April 8, 2017.

The *Residential Tenancy Act* permits posting a hearing package to a door or other conspicuous place if the landlord seeks an Order of Possession, however that method is not sanctioned by the *Act* where a party seeks monetary compensation. Therefore, I dismiss the landlord's application for a monetary order for unpaid rent or utilities with leave to reapply.

The hearing commenced in the absence of the tenant with respect to the landlord's application for an Order of Possession. All evidence of the landlord has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for cause?

### Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on April 1, 2016 and expires on April 30, 2018 at which time the tenant is required to vacate the rental unit. The landlord's agent is not certain whether or not the tenant has vacated. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$500.00 which is still held in trust by the landlord, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided.

Rent is subsidized and the tenant's share is \$375.00 per month, and the tenant is currently in arrears of rent the sum of \$1,125.00. The tenant has not paid rent for March, April or May, 2017.

On February 15, 2017 an agent of the landlord served the tenant personally with a 1 Month Notice to End Tenancy for Cause, a copy of which has been provided for this hearing. It is dated February 15, 2017 and contains an effective date of vacancy of March 31, 2017. The reason for issuing it states: "Tenant has engaged in illegal activity that has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord." The landlord's agent testified that the tenant has not served the landlord with an application for dispute resolution disputing the notice, and that the landlord was justified, and had cause to issue the notice.

### Analysis

The *Residential Tenancy Act* states that once served with a 1 Month Notice to End Tenancy for Cause, the tenant has 10 days to dispute it by filing and serving the landlord with an application for dispute resolution. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, I am satisfied that the tenant was personally served with the notice on February 15, 2017. The landlord's agent testified that the tenant has not served the landlord with an application for dispute resolution, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession on 2 days notice to the tenant.

Since the landlord has been partially successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, the landlord's application for a monetary order for unpaid rent or utilities is hereby dismissed with leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 as recovery of the filing fee.

This order is final and binding and may be enforced.

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: May 09, 2017

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Residential Tenancy Branch