



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR MNSD FF

### **Introduction:**

Both parties attended the hearing and gave sworn testimony. They confirmed that the 10 Day Notice to End Tenancy dated May 2, 2017 to be effective May 15, 2017 was served by posting it on the door and the Application for Dispute Resolution was served by registered mail. 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; 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 a Monetary Order for rental arrears and filing fee?

### **Background and Evidence:**

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced April 1, 2012, a security deposit of \$441.50 was paid and rent is currently the economic rent of \$859 a month. This was a subsidized unit and the landlord explained how a subsidy meeting was held in February 2017, then letters were sent in March prior to the subsidy expiration in April 30, 2017. However, this tenant did not contact them for a subsidy review until after the 10 Day Notice to End Tenancy was served. They request an Order of Possession effective July 31, 2017 and a monetary order for rental arrears. The landlord noted the tenant owed a further two months rent (\$859x2) for June and July 2017 but they claimed only arrears to May 31, 2017 of \$1090.85 on their Application.

The tenant submitted no documents to dispute the amount owing. She said she had been confused about the rent review and amount and the landlord refused a review until after the hearing. The landlord said they refused for the 10 Day Notice to End Tenancy had already been served and they prefer to end this tenancy.

In evidence are several Notices to End Tenancy, a letter regarding late payments in 2016, a subsidy application made in 2016, the tenancy agreement and 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. I find the tenancy ended on May 15, 2017. An Order of Possession is issued July 31, 2017 as requested by the landlord.

**Monetary Order**

I find that there are rental arrears of \$1090.85 to May 30, 2017 as set out in the Application. As explained to the landlord in the hearing, under the Principles of Natural Justice, a party must be informed of the claim against them and have an opportunity to respond. Although the landlord submits that rent for June and July is also owing, I find it is unfair to the applicant to make a monetary order against her for this additional amount as she had no notice of these amounts on the application. I find the landlord entitled to a monetary order for \$1090.85 as claimed. I give them leave to reapply for further amounts owing.

**Conclusion:**

I find the landlord is entitled to an Order of Possession effective July 31, 2017 as agreed and to a monetary order as calculated below. I give them leave to reapply for further amounts that may be owed. I find the landlord is entitled to retain the security deposit to offset the amount owing and to recover filing fees paid for this application.

Rent arrears to May 31, 2017	1090.85
Filing fee	100.00
Less security deposit	-441.50
<b>Total Monetary Order to Landlord</b>	<b>749.35</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 18, 2017

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Residential Tenancy Branch