



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes:** OPR MNR FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

While the landlord attended the hearing by way of conference call, the tenants did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package and evidence on June 26, 2017 by way of registered mail. The landlord provided Canada Post tracking numbers in their evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application and evidence on July 1, 2017, five days after its registered mailing.

The landlord testified that the tenants were served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 3, 2017 ("10 Day Notice"), on June 3, 2017, by way of registered mail. The landlord provided a Canada Post tracking number in her evidence. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's 10 Day Notice on June 8, 2017, five days after its registered mailing.

At the beginning of the hearing the landlord withdrew her application for an Order of Possession as the tenants moved out on or about June 23, 2017. Accordingly, the landlord's application for an Order of Possession was considered withdrawn.

**Issue(s) to be Decided**

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover their filing fee for this application pursuant to section 72 of the *Act*?

**Background and Evidence**

The landlord testified regarding the following facts. This fixed-term tenancy began on August 1, 2016, with monthly rent in the amount of \$2,100.00 payable on the first day of each month. The landlord holds a security deposit in the amount of \$1,100.00 for this tenancy. The landlord discovered that on or about June 23, 2017 the tenants had moved out of the rental home, after she was notified by way of letter from the municipality over concerns about overgrown grass and dandelions. The landlord attended the property to discover that the tenants had abandoned the property, and the electricity was shut off.

The landlord issued the 10 Day Notice on June 3, 2017 to the tenants as they failed to pay rent for the months of May and June 2017. The landlord testified that the tenants owe the following in outstanding rent: \$2,100.00 for May 2017 and \$2,100.00 for June 2017. The total outstanding rent is \$4,200.00. The landlord is seeking monetary compensation for the unpaid rent plus recovery of the filing fee for this application.

**Analysis**

The landlord provided undisputed evidence at this hearing, as the tenants did not attend. The landlord testified that the tenants failed to pay the outstanding rent in the amount of \$4,200.00 for the months of May and June 2017. Therefore, I find that the landlord is entitled to \$4,200.00 in outstanding rent for this tenancy.

The landlord continues to hold the tenants' security deposit of \$1,100.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security deposit in partial satisfaction of the monetary claim. I note for future reference section 19(1) of the *Act* only allows the landlord to collect a security deposit equivalent to an amount not greater than half of the monthly rent under the tenancy agreement.

As the landlord was successful in their application, I find that she is entitled to recover the filing fee for this application.

**Conclusion**

The landlord withdrew her application for an Order of Possession as the tenants had moved out.

I issue a \$3,200.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent, the filing fee for this application, and also allows the landlord to retain the tenants' security deposit in partial satisfaction of the monetary claim. The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: August 23, 2017

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Residential Tenancy Branch