



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes: OPR, MNR

### Introduction:

A hearing was convened under the *Residential Tenancy Act* (the “Act”) to deal with the landlord’s application based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 6, 2017 (the “10 Day Notice”).

The landlord’s application was for an order of possession for unpaid rent and a monetary order for unpaid rent. However, at the outset of the hearing the landlord advised that the tenant has vacated. Accordingly the landlord withdrew the request for an order of possession.

The tenant did not attend the hearing. The landlord’s building manager attended and was given a full opportunity to be heard, to present documentary evidence and to make submissions.

As the tenant did not attend the hearing, service of the landlord’s application and the notice of hearing were considered. The manager provided affirmed testimony that she served the tenant with these materials by mailing them by registered mail on June 27, 2017 to the rental unit address. A Canada Post tracking number was provided in support. I accept that the tenant has been served with the notice of hearing and application.

### Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

### Background and Evidence

According to the written tenancy agreement in evidence and the landlord’s affirmed and undisputed evidence, this tenancy began on August 1, 2016 for a fixed term expiring July 31, 2017. Rent was \$1,150.00 monthly, payable on the first day of each month. A

security deposit of \$575.00 was paid at the beginning of the tenancy and remains with the landlord.

The manager provided affirmed testimony that she served the tenant with the 10 Day Notice by posing it on the rental unit door on June 6, 2017. A Proof of Service document signed by a witness was in evidence in support of this.

At the time the 10 Day Notice was issued, the tenant owed rent for June. He moved out soon after he received the application and notice of hearing. The landlord claims for unpaid June rent.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. Based on the landlord's undisputed testimony and the Proof of Service document in evidence, I find that the tenant was served with the 10 Day Notice on June 9, three days after it was posted as per s. 90 of the Act. I further find that the tenant did not file an application to dispute the 10 Day Notice or pay the overdue June rent.

Section 46(5) of the Act provides that if a tenant does not pay the amount outstanding or apply to dispute a 10 Day Notice within five days of receipt, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must vacate the rental unit by that date.

In accordance with section 46(5) of the Act, the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on June 19, 2017, the corrected effective date on the 10 Day Notice.

Sections 7 and 67 of the Act establish that a tenant who does not comply with the Act, Regulation or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. The landlord provided undisputed evidence that the tenant owes \$1,150.00 in unpaid rent and I award the landlord this amount.

As the landlord was successful in this application, I find that the landlord is also entitled to recover the \$100.00 filing fee.

The landlord continues to hold the tenant's security deposit of \$575.00. Over the period of this tenancy, no interest is payable on the deposit. In accordance with the offsetting

provisions of section 72 of the Act, I authorize and order the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

### Conclusion

I issue a monetary order for the landlord in the following terms, which allows the landlord to obtain a monetary award for unpaid rent and the filing fee, and to retain the security deposit for this tenancy:

| <b>Item</b>                 | <b>Amount</b>   |
|-----------------------------|-----------------|
| Unpaid rent                 | \$1,150.00      |
| Filing fee                  | \$100.00        |
| Less security deposit       | -\$575.00       |
| <b>Total Monetary Order</b> | <b>\$675.00</b> |

I issue a monetary order in the landlord's favour in the amount of **\$675.00**. The tenant must be served with this order as soon as possible. Should the tenant fail to comply with this order, it 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 s. 9.1(1) of the Act. Pursuant to s. 77, a decision or an order is final and binding, except as otherwise provided.

Dated: August 31, 2017

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Residential Tenancy Branch