



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR MNSD MNDC FF

### **Introduction:**

Both parties made applications but only the landlord attended the hearing and gave sworn testimony. The landlord said he posted on the tenant's door the 10 Day Notice to End Tenancy dated December 2, 2017 to be effective December 15, 2017 and also posted his Application for Dispute Resolution. He said the tenant confirmed he had received it the next day. He confirmed the tenant served his Application to cancel the Notice by mail. I find the documents were sufficiently served pursuant to section 71(1) (c) for the purposes of this hearing since it is apparent that both parties had Notice of the hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent;
- b) An Order of Possession pursuant to sections 46 and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

The tenant applies pursuant to the Act for orders as follows:

- e) To cancel a Notice to End Tenancy for unpaid rent;

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities there is unpaid rent and they are entitled to an Order of Possession and monetary order? If so, what is the amount of the compensation and is the landlord entitled to recover filing fees also?

Or is the tenant entitled any relief?

### **Background and Evidence:**

Only the landlord attended the hearing and was given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced September 1, 2017, that rent is \$600 a month and a security deposit of

\$300 was paid. The landlord said the tenant did not pay rent for December 2017 or January or February 2018.

The tenant made an Application on December 7, 2017 to cancel the Notice to End Tenancy for unpaid rent and claiming the landlord had refused to accept rent. The landlord said this is untrue. He has never refused to accept rent. The landlord said the tenant may have vacated since there is a lot of garbage outside his door but he never returned keys and the door is locked. The landlord requests an Order of Possession and a monetary order for rent arrears and over holding rent. The landlord said he was in the Residential Tenancy Branch during the call and asked for some directions on the orders. I advised him to get the printed instructions for Enforcing an Order of Possession and a Monetary Order.

In evidence is the Notice to End Tenancy for unpaid rent and the tenancy agreement. 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 there is unpaid rent. Although the tenant disputed the Notice in time, I find he did not pay the rent. I find insufficient evidence to support his allegation that the landlord refused to accept rent and the landlord denies this. I dismiss the application of the tenant.

Section 26 of the Act provides a tenant must pay rent on time. I find the tenancy ended on December 15, 2017 pursuant to the Notice to End Tenancy and I find the landlord is entitled to an Order of Possession

#### **Monetary Order:**

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord's evidence credible that the tenant owes \$600 rent for December 2017 and \$1200 in over holding rent for January and February 2018.

**Conclusion:**

The application of the tenant is dismissed. I find the landlord entitled to an Order of Possession effective two days from service and to a monetary order as calculated below. I find him entitled to retain the security deposit to offset the amount owing and to recover filing fees for his application.

Rent arrears and over holding rent Dec. 2017- Feb. 2018(3x600)	1800.00
Filing fee	100.00
Less security deposit	-300.00
<b>Total Monetary Order to Landlord</b>	<b>1600.00</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: February 06, 2018

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Residential Tenancy Branch