



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR RR MNDC MNSD FF

### **Introduction:**

Both parties made Applications but only the landlord attended the hearing and gave sworn testimony. He said he personally served the 10 Day Notice to End Tenancy dated Feb.3, 018 to be effective February 13, 2018 and the Application for Dispute Resolution. He said he received the tenant's Application served by registered mail. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this 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) To retain the security deposit to offset the amount owing; 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 pursuant to section 46;
- f) A monetary order or rent rebate as compensation for facilities not provided due to overcrowding in the home and a failure of the landlord to protect her peaceful enjoyment pursuant to section 28; and
- g) To suspend or set limits on the landlord's entry into her suite pursuant to section 29.

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

Has the landlord proved on the balance of probabilities that rent is owed and they are entitled to an Order of Possession and a monetary order for rental arrears and to recover the filing fee for this application?

Or is the tenant entitled to any relief? Has the tenant proved on a balance of probabilities that she is entitled to a rent refund or rebate?

**Background and Evidence:**

Only the landlord attended the hearing, although the tenant had also made an Application which was to be heard at the same time. The landlord was given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in May 2017, that rent is \$500 a month and a security deposit of \$250 was paid. It is undisputed that the tenant did not paid rent for February 2018 but she made an Application to request compensation for overcrowding and loss of her peaceful enjoyment and to cancel the Notice to End Tenancy for unpaid rent.

The landlord said the tenant had not paid rent for February, March and April 2018 and other tenants just informed him that she appeared to have vacated. He requests an Order of Possession and a monetary order for unpaid rent.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis:**

Order of Possession:

Section 26 of the Act requires a tenant to pay rent on time whether or not the landlord fulfills his obligations under the Act. Section 46 provides a tenancy may be ended if rent is unpaid. Although the tenant made an application to cancel the Notice to End Tenancy, I find she did not provide any valid grounds to cancel the Notice and did not attend the hearing to support her application. I dismiss the Application of the tenant and uphold the Notice to End Tenancy dated February 3, 2018. The tenancy ended on February 13, 2018. I find the landlord's evidence credible that the tenant has paid no rent since service of the Notice. I find the landlord entitled to an Order of Possession effective two days from service.

Monetary Order:

I find the weight of the evidence is there is \$500 in rent arrears for February 2018 and \$1000 in over holding rent owed for March and April 2018. I find the landlord entitled to a monetary order to recover the unpaid rent.

On the tenant's application, the onus is on her to prove on the balance of probabilities that she is entitled to rent rebate and/or compensation as claimed. I find insufficient documentary evidence and she did not attend to support her application. I find evidence submitted by the landlord shows she consented to the additional family members occupying the home. I dismiss her application.

**Conclusion:**

I dismiss the application of the tenant in its entirety without leave to reapply; her fee was waived.

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.

Calculation of Monetary Award:

Unpaid rent for Feb., March, April 2018	1500.00
Filing fee	100.00
Less security deposit	-250.00
<b>Total Monetary Order to Landlord</b>	<b>1350.00</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: April 12, 2018

---

Residential Tenancy Branch