



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, MNSD, FF

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the monetary claim.

The landlord was represented by an agent who testified that the notice of hearing was served on the tenant on May 19, 2018 by registered mail, to the rental unit. The landlord filed a copy of the tracking slip into evidence. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord's agent attended the hearing and was given full opportunity to present evidence and make submissions.

The landlord's agent testified that the tenant moved out on May 31, 2018. Despite the tenant having moved out the landlord's agent requested an order of possession for the landlord's records.

### **Issues to be decided**

Is the landlord entitled to an order of possession and a monetary order to recover unpaid rent and the filing fee? Is the landlord entitled to retain the security deposit?

### **Background and Evidence**

The landlord's agent testified as follows: The tenancy started on February 01, 2018. The monthly rent was \$2,600.00/month. Prior to moving in the tenant paid a security deposit of \$1,300.00.

The tenant failed to pay rent for April 2018 and on April 10, 2018; the landlord served the tenant with a ten day notice to end tenancy for unpaid rent. The tenant did not dispute the notice and continued to occupy the rental unit without paying rent until the tenant moved out on May 31, 2018.

The landlord is applying for a monetary order for rent for the months of April and May 2018 in the amount of \$5,200.00 plus \$100.00 for the filing fee.

### **Analysis**

Based on the undisputed sworn testimony of the landlord's agent, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on April 10, 2018 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make 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. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to her monetary claim of \$5,200.00 for unpaid rent plus \$100.00 for the filing fee for a total entitlement of \$5,300.00. I order that the landlord retain the security of \$1,300.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$4,000.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant and I grant the landlord a monetary order in the amount of **\$4,000.00**.

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: June 22, 2018

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Residential Tenancy Branch