



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant.

Although served with the Application for Dispute Resolution and Notice of Hearing, by registered mail, sent on October 26, 2018, the tenant did not appear. A Canada post tracking number was provided as evidence of service. I find that the tenant has been duly served in accordance with the Act. Refusal or neglect to pick up the package does not override the deemed served provision of the Act.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent indicated that they were able to give the tenant another copy on November 20, 2018, in person.

The landlord's agent, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

### Background and Evidence

Based on the testimony of landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent sent on October 2, 2018, by registered mail. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice. I find the tenant was deemed served five days after it was mailed.

The landlord's agent testified that when they issued the Notice on October 2, 2018, the tenant was in rent arrears in the amount of \$1,092.00. This was related to failure to pay rent in July 2018. The agent stated they gave the tenant time to pay; however, the tenant did not make any effort to pay the outstanding rent.

The landlord's agent testified that subsequent to issuing the Notice, the tenant's rent for October 2018, was returned for NSF. However, the tenant's rent for November 2018, was cashable.

The landlord's agent stated that they seek to recover the two (2) months of unpaid rent in the amount of \$2,184.00, and the two (2) NSF fees in the amount of \$50.00, for a total amount of \$2,234.00.

The landlord's agent stated that they would like to offset the tenant's security deposit of \$525.00, against their claim.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant has not paid the outstanding rent and did not apply to dispute the notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I find that the landlord has established a total monetary claim of **\$2,334.00** comprised of unpaid rent, the NSF fees, and the \$1000.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of \$525.00 in partial satisfaction of the claim and I grant the landlord an order pursuant to section 67 of the Act, for the balance due of **\$1,809.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

### Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: November 30, 2018

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Residential Tenancy Branch