



# Dispute Resolution Services Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Goodwin Investments  
Ltd. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act, (the “Act”), for an order of possession, for a monetary order for unpaid rent, and to keep the security deposit in partial satisfaction of the claim.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on September 22, 2020 and successfully delivered on September 24, 2020. A Canada post tracking number was provided as evidence of service. I find the tenant was duly served on September 24, 2020. The landlord stated they also provided an additional copy to the tenant by posting to the door.

The landlord appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

### Issues to be Decided

Are the landlords entitled to an order of possession?

Are the landlords entitled to a monetary for unpaid rent?

Are the landlords entitled to keep the security deposit in partial satisfaction of their claim?

### Background and Evidence

The tenancy began on April 1, 2016. Rent in the amount of \$4,100.00 was payable on the first of each month. A security deposit of \$2,000.00 was paid by the tenant.

The landlord testified that the tenant stopped paying any rent on July 1, 2019. The landlord stated that the tenant told them that they were having financial issues and then medical issues. The landlord stated that they were hopeful that the tenant would get back on track with the rent. However, that never happened, and then the state of emergency came into effect banning evictions.

The landlord testified that the tenant has paid no rent from July 2019, to November 2020 and currently owes the amount of \$69,700.00. The landlord stated that they are aware of the statutory limit under the Act and have waived any amount that is over \$35,000.00. The landlords seek a monetary order in the amount the \$35,000.00.

The landlord testified that the tenant was served with a One Month Notice to End Tenancy for Cause (the "Notice"), issued on July 16, 2020, by registered mail, which was sent on July 17, 2020. A copy of the Canada post tracking number was submitted in evidence. The landlord stated that the tenant was also given a second copy by posting to the door on July 17, 2020. I find the tenant was deemed served on July 20, 2020, three days after it was posted to the door.

The Notice explains the tenant had ten days to dispute the Notice. The Notice further explains if the Notice is not disputed within the ten days that the tenant is presumed to accept the Notice and must move out of the rental unit by the date specified in the Notice.

The landlord testified that the tenant did not disputed the Notice and have indicated that they are currently packing. The landlord seeks an order of possession.

### Analysis

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

I accept the undisputed evidence of the landlord that the tenant has not paid any rent for 17 months. I find the tenant has breached section 26 of the Act and this caused losses to the landlord. While I accept the total rent due is the amount of \$69,700.00,

which is outside my statutory limit of \$35,000.00. However, the landlords have waived any amount over that exceeds this amount. Therefore, I grant the landlords a monetary order in the amount of **\$35,000.00**.

I find that the landlords have established a total monetary claim of \$35,000.00. I authorize the landlords to keep the security deposit in partial satisfaction of the claim and the landlords are granted a formal order for the balance due of **\$33,000.00**. This order may be filed in the Provincial Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I accept the evidence of the landlord that the Notice was completed in accordance with Part 4 of the Act - How to End a Tenancy, pursuant to section 47 of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 52 the Act.

Further, I accept the evidence of the landlord that the tenant was served with the Notice in compliance with the service provisions under section 88 of the Act. I am satisfied based on the landlord's evidence that the landlord has met the statutory requirements under the Act to end a tenancy.

The tenant did not apply to dispute the Notice and therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. I find the tenancy legally ended on September 1, 2020, and the tenant is overholding the premise as an occupant.

I find that the landlords are 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.

### Conclusion

The tenant failed to pay rent. The tenant failed to dispute the Notice. 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 landlords are granted a monetary order and may keep the security deposit in partial satisfaction of the claim. The landlords are granted an order of possession,

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 09, 2020

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Residential Tenancy Branch