



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### **Introduction**

This hearing dealt with an application by the landlord pursuant to sections 55, 67 and 72 of the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee.

The notice of hearing was served on the tenant on September 16, 2020, by registered mail. The landlord provided a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

At the start of the hearing the landlord informed me that in early October 2020, he found out from a neighbour that the tenant had moved out on or about October 01, 2020.

### **Issues to be decided**

Is the landlord entitled to an order of possession and to the recovery of unpaid rent and the filing fee?

### **Background and Evidence**

The landlord testified that the tenancy started on March 01, 2016. The monthly rent is \$1,181.50 payable on the first of each month and includes utilities. Prior to moving in, the tenant paid a security deposit of \$565.75.

The tenant failed to pay rent for August and September 2020. On September 02, 2020, the landlord served the tenant with a notice to end tenancy for nonpayment of rent, with an effective date of September 12, 2020. A copy of the notice was filed into evidence. A copy of a witnessed proof of service form was filed into evidence which indicates that the 10-day notice was posted to the tenant's door on September 2, 2020.

The landlord testified that the tenant did not dispute the notice and continued to occupy the rental unit without paying rent. The landlord stated that at the time of the hearing, the tenant owed rent for August, September and October 2020 in the total amount of \$3,544.50. Since the tenant moved out on or about October 01, 2020 without informing the landlord, the landlord may make application for loss of income for November if he is unable to rent the unit.

The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order for unpaid rent and the filing fee.

### **Analysis**

Section 52 of the *Residential Tenancy Act* describes the form and content of a notice to end tenancy as follows:

#### **Form and content of notice to end tenancy**

**52** In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
  - (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.

Based on the sworn testimony of the landlord and the documents filed into evidence, I find that the landlord served the tenant with a notice that was in compliance with section 52 of the *Residential Tenancy Act*. I further find that the tenant did not dispute the notice to end tenancy.

Pursuant to section 46 of the *Residential Tenancy Act*, if a tenant has received a notice to end tenancy for cause and does not make an application for dispute resolution within five days after receiving the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

Therefore, I uphold the notice to end tenancy dated September 02, 2020. Accordingly, the landlord is entitled to an order of possession. 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.

Based on the sworn testimony of the landlord, the documents filed into evidence and in the absence of contradictory testimony, I find that the tenant failed to pay rent for the months of August, September and October 2020 and the landlord is entitled to \$3,544.50 in unpaid rent. Since the landlord has proven his case, he is entitled to the recovery of the filing fee of \$100.00.

Overall, the landlord has established a claim for \$3,644.50. I grant the landlord a monetary order under section 67 of the *Residential Tenancy Act*, for this amount. 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**.

I grant the landlord a monetary order in the amount of **\$3,644.50**.

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 06, 2020

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Residential Tenancy Branch