



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FFL

### Introduction

On March 16, 2021, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an order of possession; for a monetary order for unpaid rent or utilities based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities; and to recover the cost of the filing fee. On July 2, 2021 the Landlord amended the application to include another 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and a One Month Notice to End Tenancy for Cause. The Landlord amended her monetary claim to increase the claim for unpaid rent.

This matter was set for hearing by telephone conference call at 9:30 am on this date. The Landlord attended the teleconference hearing; however, the Tenant did not. The line remained open while the phone system was monitored for fourteen minutes and the Tenant did not call into the hearing during this time.

The Landlord provided affirmed testimony that the Tenant was served the Notice of Dispute Resolution Proceeding in person at the rental unit on April 14, 2021. The Landlord provided affirmed testimony that the Tenant was served with a copy of the amended application on July 2, 2021 in person at the rental unit.

I find that the Tenant has been duly served with the Notice of Dispute Resolution Proceeding in accordance with sections 89 and 90 of the *Act*. The hearing proceeded.

The Landlord was provided the opportunity to present her 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 the rental unit due to unpaid rent?

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the tenancy ending based on an undisputed One Month Notice to End Tenancy for Cause?

### Background and Evidence

The Landlord testified that the tenancy began on December 1, 2013 and is on a month-to-month basis. Rent in the amount of \$400.00 is to be paid to the Landlord by the first day of each month. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenant did not pay the rent owing under the tenancy when it was due for the month of March 2021.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 10, 2021, ("the 10 Day Notice"). The Landlord testified that the Tenant was served with the 10 Day Notice in person on March 10, 2021. The Landlord provided a copy of the 10 Day Notice.

The 10 Day Notice indicates that the Tenant has failed to pay rent in the amount of \$400.00 which was due on March 1, 2021. 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.

There is no evidence before me that the Tenant made an application to dispute the 10 Day Notice.

The Landlord testified that the Tenant did not pay the rent owing for March 2021 within five days of receiving the 10 Day Notice served on March 10, 2021.

The Landlord testified that the Tenant paid the \$400.00 owing on April 24, 2021.

The Landlord wants to enforce the 10 Day Notice and end the tenancy.

The Landlord testified that the Tenant is still living in the rental unit and owes rent for the following months:

- May 2021, in the amount of \$400.00
- June 2021, in the amount of \$400.00

The Landlord requested to amend the monetary claim to include unpaid July 2021 rent in the amount of \$400.00.

The Landlord seeks a monetary order for unpaid rent in the amount of \$1,200.00.

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant received the 10 Day Notice on March 10, 2021. I find that the Tenant did not pay the rent owing under the tenancy agreement for March 2021 within five days of receiving the 10 Day Notice and did not apply to dispute the Notice. I find that the Tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the 10 Day Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective two (2) 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 Tenant owes the Landlord \$800.00 for unpaid May 2021 and June 2021 rent. I allow the Landlord to amend the claim to include unpaid July 2021 rent. The Tenant remains living in the rental unit, is not paying the rent, and knows that rent of \$400.00 is due each month.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$1,300.00 comprised of \$1,200.00 in unpaid rent for the above-mentioned months and the \$100.00 fee paid by the Landlord for this hearing.

I grant the Landlord a monetary order in the amount of \$1,300.00. This monetary 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.

Since the tenancy is ending based on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 10, 2021, there is no need to consider the other notices to end tenancy that were issued.

### Conclusion

The Tenant failed to pay the rent within 5 days of receiving the 10 Day Notice and did not file 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.

The Landlord is granted an order of possession effective two (2) days after service on the Tenant and I grant a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$1,300.00.

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: July 29, 2021

---

Residential Tenancy Branch