



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

This Review Hearing was scheduled to convene at 11:00 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

The landlord made the application by way of the Direct Request process and a Decision was provided dated November 9, 2021. The landlord was granted an Order of Possession and a monetary order for unpaid rent. The tenant filed a Review Consideration application and was granted this Review Hearing.

An agent for the landlord attended the Review Hearing and gave affirmed testimony, however the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The Review Hearing commenced in the absence of the tenant.

### Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

### Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on June 27, 2021 and reverts to a month-to-month tenancy after June 30, 2022, and the tenant still resides in

the rental unit. Rent in the amount of \$2,600.00 is payable on the 1<sup>st</sup> day of each month. On June 13, 2021 the landlord collected a security deposit from the tenant in the amount of \$1,300.00 as well as a pet damage deposit in the amount of \$800.00, both of which are still held in trust by the landlord. The rental unit is a single family dwelling, and a copy of the tenancy agreement has been provided for this hearing.

The landlord's agent further testified that on September 2, 2021 the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by registered mail, and a copy has been provided for this hearing. It is dated September 2, 2021 and contains an effective date of vacancy of September 17, 2021 for unpaid rent in the amount of \$4,200.00 that was due on September 1, 2021.

In August, 2021 the tenant paid \$1,000.00 rent, leaving \$1,600.00 outstanding, and no rent was paid for September. The landlord received a letter from the landlord's financial institution stating that a cheque for \$4,200.00 was deposited into the landlord's account on September 13, 2021 and returned on September 17, 2021 due to non-sufficient funds, and that amount was deducted from the landlord's account. Also, no rent has been paid for October, November or December, 2021.

The landlord claims the outstanding amounts for each of those months as well as loss of rental revenue for January, 2022. Copies of bank statements have also been provided for this hearing.

### Analysis

The *Residential Tenancy Act* specifies that following a review, I may confirm, vary or set aside a Decision or Order.

The landlord was successful in obtaining an Order of Possession, and the tenant made a deposit for the outstanding rent of \$4,200.00 for August and September, 2021, and made a Review Consideration application claiming fraud and that the rent was paid within 5 days as required by the *Act*. However, the cheque deposited into the landlord's account was worthless. There is no evidence to satisfy me that the tenant paid any rent, and I grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

With respect to the monetary order, it's clear to me that since the order was made on November 9, 2021, arrears have accumulated. I find that the tenant is in arrears of rent the sum of \$1,600.00 for August, and \$2,600.00 for each of the months of September through December, 2021, for a total of \$12,000.00.

The landlord also seeks monetary compensation for loss of rental revenue for January, 2022. Any notice that the tenant could give to vacate the rental unit would not be effective until the end of January, 2022, and I find that the landlord is entitled to January's rent.

Since the landlord has been successful with the application as originally made, the landlord is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I hereby cancel the monetary order made on November 9, 2021, and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$14,700.00.

This order is final and binding and may be enforced.

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: December 20, 2021

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Residential Tenancy Branch