



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **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, on February 14, 2023, the tenant did not appear. A Canada post tracking number was provided as evidence of service. I find that the tenant was deemed served five days after it was sent. Refusal or neglect to pickup the package does not override the deemed service provision of the Act,

The landlord 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.

### Preliminary and procedural Issues

I note the landlord amended their application to include an order of possession based on a One Month Notice to End Tenancy for Cause, (the "One Month Notice"), I did not find it necessary to consider this as I have ended the tenancy pursuant to section 46 and 55 of the Act.

### 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

The tenancy began on March 1, 2021. Rent in the amount of \$1,800.00 was payable on the first of each month. A security deposit of \$900.00 was paid by the tenant.

The landlord testified that the tenant failed to pay rent for February 2023 and were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on February 5, 2023, by post to the door of the rental unit on the same day. The landlord stated that the tenant was at home; however, refuse to come to the door.

The landlord testified that the tenant did not pay the outstanding rent and have now failed to pay rent for March 2023. The landlord seeks to an order of possession and a monetary order for the unpaid rent.

### Analysis

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

I accept the undisputed testimony of the landlord, I find that the tenant was served with Notice by posting to the door on February 5, 2023. 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.

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 \$3,700.00 comprised of unpaid rent for February and March 2023, and the \$100.00 fee paid by the landlords for this application. 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.

Should the above amount remain unpaid at the end of the tenancy. The landlord may keep the security deposit to offset the amount owed, pursuant to section 38(4) of the Act.

### 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 a monetary order in the above noted amount.

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: March 20, 2023

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Residential Tenancy Branch