



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This matter dealt with an application by the landlord for an Order of Possession and a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

Service of the hearing documents was done in accordance with section 89 of the *Act*. They were sent to the tenant on June 18, 2009 by registered mail. The Canada Post Tracking system shows that the tenant did not collect these from the post office; however, the landlord made the tenant aware of today's hearing and the tenant dialed into the conference call.

Both parties appeared, gave their testimony, were provided the opportunity to present evidence, make submissions and to cross-examine the other party. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Whether the landlord is entitled to an Order of Possession?
- Whether the landlord is entitled to a Monetary Order to recover the unpaid rent and filing fee?

### Background and Evidence

This tenancy began on April 01, 2009. Rent for this unit is \$950.00 per month due on the 1<sup>st</sup> of each month. The tenant did paid rent for June by cheque however the cheque

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was returned as there were insufficient funds. On June 04, 2009 the landlord served the tenant with a Notice to End Tenancy for unpaid rent. This was posted to the tenants' door on June 04. This Notice was deemed to have been served three days after posting it on the door therefore it was served on June 07, 2009. The tenant had five days to pay the outstanding rent or dispute the Notice or the tenancy would end on June 17, 2009 10 days after it was deemed to have been served.

On June 12, 2009 the tenant paid \$800.00 towards the outstanding rent. This left a short fall of \$150.00. This rent was accepted by the landlord and the tenancy continues. At this time the tenant owes returned cheque fees for May of \$25.00, returned cheque fees for June of \$25.00, late fees for June of \$25.00 and outstanding rent for June of \$150.00. However, on the landlords' application they claim the tenant owes rent for June of \$350.00. When questioned, the landlords' agent was unclear about the exact amount of rent that was outstanding including late fees and returned cheque fees.

## Analysis

The landlords' evidence is scant and unclear as to the amount of rent owed by the tenant. The amount they have requested on the application contradicts the correct amount owing. The landlord accepted the rent the tenant paid in June and did not make it clear that this was for use and occupancy only. The landlord has provided insufficient evidence of the correct amount of rent that the tenant owes. Therefore, The 10 Day Notice to End Tenancy is cancelled and I dismiss the landlords' application for an Order of Possession for unpaid rent with leave to reapply.

I find the tenant does owe late fees and returned cheque fees for May and June as agreed on the tenancy agreement signed by both parties. I also find that the tenant owes outstanding rent for June of \$150.00.

I find in favour of the landlords application for a Monetary Order and an Order has been issued for the following amount;

Outstanding rent for June, 2009	\$150.00
Returned cheque fees for May and June	\$50.00
Filing fee	\$50.00
Total amount due to the landlord	\$275.00

## Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$275.00**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

The landlords' application for an Order of Possession is dismissed with leave to reapply.

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 22, 2009.

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Dispute Resolution Officer