



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

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

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent and the filing fee.

The notice of hearing was served on the tenant on November 19, 2010 in person by the landlord. 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.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

### **Background and Evidence**

The landlord testified that the tenancy started on December 01, 2008. The monthly rent is \$745.00 due in advance on the first of each month. Through the tenancy, the tenant was behind on rent and attempted to catch up by paying instalments. As of October 31, 2010, the tenant owed \$2,130.00 which consisted of unpaid rent from the prior three months. The tenant failed to pay rent for November and on November 03, 2010 the landlord served the tenant with a ten day notice to end tenancy.

The landlord stated that the tenant has not paid any money towards his debt for unpaid rent and continues to occupy the rental unit. At the time of this hearing, the tenant owed the landlord rent for December in addition to rent for November plus \$2,130.00 from prior unpaid rent.

The landlord has applied for an order of possession effective two days after serving it on the tenant and for a monetary order in the amount of \$3,670.00 which consists of 3,620.00 for unpaid rent plus the filing fee of \$50.00.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on November 03, 2010 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant is deemed to have accepted the end of the tenancy, on the date set out in the Notice. 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.

I find that the landlord has established a claim of \$3,620.00 for unpaid rent. Since the landlord has proven her case, I find that she is also entitled to the recovery of the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$3,670.00. 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 and a monetary order in the amount of **\$3,670.00**.

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: December 10, 2010.

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Dispute Resolution Officer