



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and an order to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing on December 23, 2010, by registered mail, the evidence of which was supplied by the Landlord's Agent, the Tenant did not appear.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

### Background and Evidence

Based on the testimony of Landlord's Agent, I find that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent by the Landlord. 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 Landlord's Agent testified that the Tenant made a partial payment of outstanding rent on December 10, 2010, but did not pay the remaining outstanding rent until December 22, 2010.

The Landlord's Agent testified and provided evidence that the Tenant was issued a receipt for the remaining unpaid rent for December with the phrase "For Occupancy Only," remains in the rental unit and has not paid the rent for January 2011. The Landlord's Agent is also requesting \$25.00 for an NSF charge for the Tenant's rental payment.

### Analysis

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

The Tenant did not apply to dispute the Notice and did not pay the outstanding rent within five days of 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, December 19, 2010.

I find that the Landlord is entitled to an order of possession 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.

I allowed the Landlord to amend their application to request for unpaid rent for January 2011 of \$860.00.

I find that the Landlord has established a total monetary claim of **\$935.00** comprised of \$860.00 outstanding rent for January 2011, \$25.00 an NSF charge and the \$50.00 fee paid by the Landlord for this application.

I **order** that the Landlord retain the deposit of \$430.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$505.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The Landlord is granted an Order of Possession, may keep the security deposit in partial satisfaction of the claim and is granted a monetary order for the balance due of \$505.00.

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: January 17, 2011.

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Residential Tenancy Branch