



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OPR, MND, MNR, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent and damage to the unit, site or property; and to recover the filing fees associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent on February 5<sup>th</sup>, 2011. The tenant did not participate and the hearing proceeded in the tenant's absence.

At the outset, the landlord stated that the tenant moved out of the rental unit on January 31<sup>st</sup>, 2011. Therefore the landlord's application for an Order of Possession is dismissed.

### Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and if so for what amount?

### Background and Evidence

The rental unit consists of a cabin shared with the primary place of residence on a private lot. Pursuant to a verbal agreement, the month to month tenancy started in 2007 and the monthly rent was \$600.

The landlord testified that the tenant did not pay the rent for January 2011, and that he served the tenant with a 10 Day Notice to End Tenancy on January 21<sup>st</sup>, 2011.

The landlord testified that he sent a copy of the 10Day Notice to End Tenancy to the Residential Tenancy Branch with his written submissions. The Branch received the landlord's submissions but the 10 Day Notice was not in that package. Concerning the landlord's monetary claim for damages, the Branch received the landlord's 15 page written submissions, including photographs showing damages and the condition of the unit at the end of the tenancy. The landlord stated that he did not start the repairs, and provided no documentary evidence to support the quantum of his claim.

### Analysis

Based on the documentary evidence and the landlord's testimony, it is no longer necessary to make a finding regarding an Order of Possession and that aspect of the landlord's application is hereby dismissed.

Concerning the unpaid rent, pursuant to section 46(2) of the *Residential Tenancy Act*, in the absence of a copy of the 10 Day Notice to End Tenancy for unpaid rent I am unable to determine whether the notice was served in accordance with section 52 concerning form and content. I find that the landlord provided insufficient evidence to establish the exact amount and the landlord's application for unpaid rent is dismissed with leave to reapply.

The landlord stated that he did not complete any repairs to the unit. Accordingly, I further find that the landlord did not provide sufficient evidence to support his monetary claim for damages and that aspect of his application is also dismissed.

Conclusion

The landlord's application 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: February 14, 2011.

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Residential Tenancy Branch