



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes – OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord has applied for an order of possession and a monetary order due to unpaid rent. The tenant has applied to cancel a notice to end tenancy

The hearing was conducted via teleconference and was attended by the landlord and his agent. The tenant did not attend. As both parties submitted Applications for Dispute Resolution relating to these matters, I find the tenants were sufficiently aware of this hearing and the related matters for the purposes of proceeding.

The landlord had named himself and his agent on the Application for Dispute Resolution. At the outset of the hearing I clarified with the landlord that the application would be in his name only and have amended his application to reflect this.

Further, the landlord had submitted his claim against two tenants but the tenancy agreement names only one tenant and I have amended the landlord's application to name only the tenant named in the tenancy agreement.

The landlord further amended his application to exclude retention of the security deposit at this time and to deal with that matter in accordance with the *Residential Tenancy Act (Act)* when the tenancy ends.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on April 12, 2010 for a 1 year fixed term tenancy beginning on May 1, 2010 and converting to a month to month tenancy on May 1, 2011 for the monthly rent of \$1,475.00 due on the 1<sup>st</sup> of each month and a security deposit of \$725.00 was paid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 6, 2011 with an effective vacancy date of June 16, 2011 due to \$2,950.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the months of May, June and July 2011 and that the tenant was personally served a 10 Day Notice to End Tenancy for Unpaid Rent on June 6, 2011.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did apply to dispute the Notice to End Tenancy within five days but did not file evidence or attend this hearing.

### Analysis

I have reviewed all evidence and in the absence of any contrary testimony accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on June 6, 2011 and the effective date of the notice is June 16, 2011.

I accept the evidence before me that the tenant failed to pay the rent owed in full with in the 5 days granted under section 46 (4) of the *Act*. In the absence of any evidence from the tenant, I dismiss the tenant's application in its entirety, without leave to reapply.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$4,475.00** comprised of \$4,425.00 rent owed and the \$50.00 fee paid by the landlord for this application.

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

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 04, 2011.

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Residential Tenancy Branch