



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNSD

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and to retain the security deposit towards unpaid rent.

The notice of hearing was served on the tenant by registered mail on April 17, 2012. The landlord provided a tracking number. 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 retain the security deposit?

### **Background and Evidence**

The tenancy started on March 01, 2011. The monthly rent is \$1,075.00 due in advance on the first of each month. The landlord stated that the tenant is on Social Assistance and rent cheques are sent directly to the landlord in the amount of \$1,055.58. The tenant is required to pay the balance of \$20.00.

The landlord stated that the tenant failed to pay this balance for December, January and February. In March, the landlord did not receive rent from Social Assistance and served the tenant with a ten day notice to end tenancy. As of the date of the hearing the tenant had not paid the rent owed and in addition owes rent for April and May 2012.

The landlord has applied for an order of possession effective two days after service on the tenant and to retain the security deposit towards the unpaid rent.

### **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 March 01, 2012 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 has been 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 is entitled to unpaid rent and also entitled to her application to retain the security deposit towards unpaid rent.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant. The landlord may retain the security deposit towards unpaid rent.

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: May 03, 2012.

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Residential Tenancy Branch