



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Boardwalk General Partnership  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This was a hearing with respect to the landlord's application for an order for possession and a monetary order. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. The tenant did not attend.

### Issue(s) to be Decided

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary award and if so, in what amount?

### Background and Evidence

The rental unit is an apartment in Surrey. I was not provided with a copy of the tenancy agreement. The monthly rent is \$795.00 plus a \$25.00 parking charge. The tenant did not pay rent for June. The landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent on June 5, 2013 by posting it to the door of the rental unit on June 5, 2013.

The landlord's representative testified that the tenant has not paid rent and he told the landlord that he will not return possession of the rental unit to the landlord until the landlord hires a bailiff to evict him. Despite the tenant's remarks he removed his belongings and moved out of the rental unit several months ago. The landlord has applied for an order for possession, as well as a monetary order because the tenant has not formally relinquished possession of the rental unit to the landlord. The landlord sent the application for dispute resolution to the tenant by registered mail on July 6<sup>th</sup>. The registered mail was returned to the landlord unclaimed.

### Analysis and conclusion

Section 44 of the *Residential Tenancy Act* sets out the means by which a tenancy may be ended and the circumstances under which a tenancy will be considered to have ended. Section 44 (1) (d) provides that a tenancy ends if the tenant vacates or abandons the rental unit. Based on the landlord's evidence it is clear that the tenant has vacated and abandoned the rental unit; further he has not paid rent since May. The landlord has requested an order for possession out of concern caused by the tenant's remarks that he will not surrender possession. I grant the landlord an order for possession as requested. This order may be filed in the Supreme Court and enforced as an order of that court.

With respect to the landlord's claim for a monetary order for unpaid rent, section 89 of the *Residential Tenancy Act* provides that an application for dispute resolution seeking a monetary order must be personally served on a tenant or served by registered mail to the address at which the tenant resides or to a forwarding address provided by the tenant. Because the tenant did not reside at the rental property on July 6<sup>th</sup> when the registered mail was sent to that address, I find that the tenant has not been properly served with the application for the purpose of granting a monetary order. The landlord's application for a monetary order 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: August 07, 2013

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Residential Tenancy Branch

