



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit.

A.W., who had not been named as a respondent, appeared at the hearing and advised that she was a co-tenant with J.H. and was appearing on his behalf. The parties agreed that she should be added as a respondent. The style of cause and accompanying orders reflect this amendment.

### Issues to be Decided

Is the landlord entitled to an order of possession?  
Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The facts are not in dispute. The tenants are obligated to pay \$1,000.00 per month. They failed to pay rent in the months of October – December 2014 inclusive. On October 2, 2014, the landlord served on the tenants a 10 day notice to end tenancy for unpaid rent (the “Notice”).

A.W. testified that she did not pay rent because she did not believe that the landlord was fulfilling his obligations under the tenancy agreement.

### Analysis

Section 26 of the Act requires tenants to pay rent regardless of whether the landlord is complying with the tenancy agreement. I find that the tenants did not have a legal reason to withhold their rent. I find that the tenants received the Notice on October 2, 2014. The tenants did not pay the arrears within 5 days of receipt of the Notice and did

not dispute the Notice and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I grant the landlord an order of possession effective 2 days after service on the tenants. Should the tenants fail to comply with the order, it may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to recover rental arrears for October –December as claimed. I further find that as the landlord has been successful in his application, he is entitled to recover the \$50.00 filing fee. I award the landlord \$4,050.00 and grant him a monetary order under section 67 for this sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

I note that the landlord had made a claim against the security deposit, but no evidence was offered as to the amount of the deposit so I have not applied it against the award. Pursuant to section 38(3) of the Act, the landlord may retain the security deposit and apply it toward the enclosed monetary order. This will serve to reduce the enforceable amount of the monetary order.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$4050.00.

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 20, 2015

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Residential Tenancy Branch

