



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Couch Conceptions Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, OPR, CNR, FF, MT

### Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were to be heard together; however the tenant did not join the conference call that was set up for this hearing, and therefore the tenants application has been dismissed, and I dealt solely with the landlords application..

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the landlords the opportunity to give their evidence orally.

All testimony was taken under affirmation.

### Issue(s) to be Decided

On the landlords application the landlord has requested an Order of Possession based on a Notice to End Tenancy and has also requested a Monetary Order for outstanding rent and recovery of the filing fee.

### Background and Evidence

The landlord testified that this tenancy began on July 1, 2016, for a fixed term of one year, with a monthly rent of \$825.00, due on the first of each month.

The landlord further testified that the tenant failed to pay any rent for the month of September 2016, and therefore on September 2, 2016 a 10 day Notice to End Tenancy was posted on the tenant's door.

The landlord further testified that the tenant has failed to comply with that notice and has failed to pay any further rent, and therefore as of today's date there is a total of \$1650.00 rent outstanding.

The landlord therefore stated that they are requesting an Order of Possession for as soon as possible, and a Monetary Order for the outstanding rent plus their filing fee.

### Analysis

It is my finding that the landlord has shown that the tenant has failed to pay any rent for the months of September 2016, and October 2016 and therefore, since the landlord has served a valid 10 day Notice to End Tenancy, I allow the landlord's request for an Order of Possession based on that notice.

I will not allow the landlord's request for a Monetary Order at this time however, because the landlord did not serve the tenant with the notice of hearing in a method that is allowed for Monetary Orders. The landlord testified that the notice was put in the tenant's mail box; however section 89 of the Residential Tenancy Act states:

**89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) *[director's orders: delivery and service of documents]*.

(2) An application by a landlord under section 55 *[Order of Possession for the landlord]*, 56 *[application for order ending tenancy early]* or 56.1 *[Order of Possession: tenancy frustrated]* must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e) as ordered by the director under section 71 (1) *[director's orders: delivery and service of documents]*.

Therefore, although I was able to proceed with the request for an Order of Possession as the service did comply with section 89(2), I am not able to proceed with the monetary portion of the claim as service did not comply with section 89(1).

The landlords request for a monetary order will therefore be dismissed, with leave to reapply.

I will however allow the request for recovery of the \$100.00 filing fee.

### Conclusion

Pursuant to section 55 of the Residential Tenancy Act, I have issued an Order of Possession that is enforceable two days after service on the tenant.

As stated previously, the landlords request for a Monetary Order is dismissed with leave to reapply.

Pursuant to section 72 of the Residential Tenancy Act I have issued an order for the respondent to pay the landlords \$100.00 for recovery of the filing fee.

The tenant's application is dismissed in full without 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: October 31, 2016

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Residential Tenancy Branch