



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

One of the landlords applies for an order of possession pursuant to a ten day Notice to End Tenancy dated May 2, 2019 and for a monetary award for unpaid rent.

The respondent tenant did not attend the hearing within forty minutes after its scheduled start time at 11:00 a.m. on July 8, 2019. The teleconference hearing connection remained open during that time in order to enable the parties to call into the teleconference hearing. The call-in numbers and participant codes provided in the Notice of Hearing were confirmed as correct. The teleconference system audio console confirmed that the landlord Ms. K. and this arbitrator were the only ones who had called into this teleconference during that period.

Ms. K. testifies that Notice of Dispute Resolution Proceeding was served on the tenant by registered mail (tracking number shown on cover page of this decision). The tracking number was not serviceable at the Canada Post public website during this hearing. Ms. K. testifies that she had seen the tracking information earlier and that the Canada Post website indicated that the Notice was sent June 3, 2019, a final notice to the tenant was given on June 12 and that ultimately the tenant failed to pick up the mail and it was being returned to the landlord. On this testimony I find that the tenant has been duly served. One cannot avoid this process by declining to retrieve one's mail.

Ms. K. testifies that she served the tenant with a ten day Notice to End Tenancy for unpaid rent on May 2 and that the tenant did not pay the \$5000.00 amount demanded in it. The tenant has not applied to cancel the Notice.

In light of the foregoing and by operation of s. 46 of the *Residential Tenancy Act*, this tenancy ended on May 13, 2019 and the applicant landlord is entitled to an immediate order of possession.

On Ms. K.'s undisputed evidence I find that on the date this application was made the tenant owed \$5000.00 in rent. He paid \$2500.00 on May 29. I award the landlord the amount of \$2500.00 for unpaid rent to and including the month of May 2019, plus recovery of the \$100.00 filing fee.

The landlord requests an award for June and July 2019 unpaid rent but I decline to permit that claim. Those amounts are not set out in the application and it would be unfair to permit an amendment at this hearing without notice to the tenant. The landlords or either of them are free to re-apply for the later rent.

In conclusion the applicant landlord will have an order of possession and a monetary order in the amount of \$2600.00. The landlord declined to have the \$750.00 security deposit she holds offset against the award at this time.

This decision was rendered orally at hearing and 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 08, 2019

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Residential Tenancy Branch