

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

### Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

### Background and Evidence

Based on the testimony of both parties, I find that the Tenants were served with a Notice to End Tenancy for non-payment of rent on January 2, 2010, by posting on the door.

The Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenants had five days to dispute the Notice.

One of the Tenants appeared at the hearing and testified the other Tenant was no longer in the rental unit. There was no evidence that the Landlord had allowed one Tenant to be released from the tenancy agreement.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find the Tenants have not paid all the outstanding rent due and did not apply to dispute the Notice. The Tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, January 15, 2010.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. However, the Agent for the Landlord consented that the Landlord would not enforce the order of possession if the Tenants **paid \$890.00 before 5:00 p.m. on March 15, 2010.**

**If the Tenants do not pay the Landlord \$890.00 before 5:00 p.m. on March 15, 2010, the Landlord may enforce the order of possession and the Tenants will have two (2) days to vacate the rental unit.**

The \$890.00 payable is comprised of \$820.00 for the outstanding rent for March 2010, a late payment fee of \$20.00 in accordance with the tenancy agreement, and the \$50.00 filing fee for the Application.

I further find that if the Tenants do not pay the Landlord by the above time and date, the Landlord has established a total monetary claim of **\$890.00**, comprised of the above described amounts. I order that the Landlord retain the deposit and interest of **\$501.56**, in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$388.44**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: March 05, 2010.

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Dispute Resolution Officer