



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession and a monetary order for unpaid rent.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on July 5, 2010, the Tenants did not appear. I find the Tenants have been duly served in accordance with the Act.

One of the Landlords appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to 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 affirmed testimony of the Landlord, I find that the Tenants were personally served with a Notice to End Tenancy for non-payment of rent on June 10, 2010. The Tenants have not paid all the outstanding rent and did not apply to dispute the Notice and 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.

However, the Landlord's evidence is that the Tenants vacated the rental unit on or about July 5, 2010.

Analysis

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

Although the Landlords are entitled to an order of possession in these circumstances, the Tenants have vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenants have failed to pay rent under the Act and tenancy agreement.

I allow the Landlords to amend their Application to include a request to keep the security deposit and to recover the filing fee for the Application.

I find the Landlords have established a total monetary claim of **\$1,850.00**, comprised of the rent owed for May and June of 2010, and the \$50.00 fee paid by the Landlords for this application.

I order that the Landlords retain the deposit of **\$450.00**, paid on December 13, 2009, in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$1,400.00**.

This order must be served on the Tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The Landlords have leave to apply for further monetary orders arising from the tenancy.

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 13, 2010.

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Dispute Resolution Officer