



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNDC, OPR, MNSD, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on August 30, 2010 the Tenants did not appear.

The Landlord appeared, gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, 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 affirmed testimony of the Landlord, I find that the Tenants were served with a 10 day Notice to End Tenancy for non-payment of rent on August 19, 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. I note the effective date indicated on the Notice is ineffective and automatically corrects under the Act to September 1, 2010.

The Tenants did not apply to dispute the Notice. The Landlord provided evidence and gave affirmed testimony that the Tenants have not paid all of the rent due and currently owe unpaid rent for July, August and September. The Landlord indicated the Tenants made partial payments in all three months and the current amount of unpaid rent is \$525.00.

I note that there is no written tenancy agreement. Dealing with the rent, the onus is on the Landlord to prove the amount of rent payable and agreed upon at the commencement of the tenancy. The Landlord gave affirmed testimony that the customary amount paid was \$1,200.00 per month and had documentation that the expected rent was this amount. As the Tenants failed to appear to dispute this, I find

that the amount of rent payable is \$1,200.00 per month payable in advance on the 1<sup>st</sup> day of each month.

### Analysis

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

The Tenants have not paid the outstanding rent and did not apply to dispute the Notice and they 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.

I find that the Landlord is entitled to an order of possession effective **2 days** after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the Landlord has established a total monetary claim of **\$575.00.00** comprised of **\$525.00** in unpaid rent and the **\$50.00** fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$450.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$75.00**.

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

### Conclusion

The Tenants failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an Order of Possession, may keep the security deposit and interest in partial satisfaction of the claim and is granted a monetary order for the balance due of \$75.00.

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: September 30, 2010.

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Dispute Resolution Officer