



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

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

All 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 affirmed testimony of the Landlord and confirmation of the Tenants, I find that the Tenants were served with a 10 Day Notice to End Tenancy for non-payment of rent on October 14, 2010, (the "Notice"). The Tenants did not dispute service of the Notice.

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 October 27, 2010.

The Landlord testified that the monthly rent is \$624.00, that the Tenants made partial payments of \$310.00 on October 25 and \$162.00 pm October 31, 2010 and no payment in November. The Landlord testified that the current unpaid rent is \$937.62 through the end of October.

The Tenants did not dispute this amount, although they testified that they were trying to arrange the payments and that it would be a hardship to move, due to personal circumstances.

### 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 the outstanding rent owed to the Landlord and failed to apply to dispute the Notice, and therefore, are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, on October 27, 2010.

I find that the Landlord is entitled to an order of possession effective on **November 26, 2010, at 1:00 p.m.** This order may be filed in the Supreme Court and enforced as an order of that Court.

I allow the Landlord to amend their Application due to the over holding of the Tenants and grant them the rent for November 2010, in the amount of \$624.00.

I find that the Landlord has established a total monetary claim of **\$1,611.62** comprised of unpaid rent of **\$1,561.62** and the **\$50.00** fee paid by the Landlord for this application.

I grant the Landlord an order under section 67 for the amount of **\$1,611.62**

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 apply 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 and a monetary order for the amount of \$1,611.62.

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: November 19, 2010.

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Dispute Resolution Officer