



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPC, MND, MNSD, MNDC, FF, O

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via a teleconference and was attended by the landlords only. The tenants did not attend.

The landlord provided documentary evidence confirming the tenants were served with notice of this hearing by registered mail on December 2, 2010, I find the tenants were served in accordance with the requirements under the *Residential Tenancy Act (Act)*.

### Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause; to a monetary order for unpaid rent; for a loan made by the landlord to the tenant; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 67, and 72 of the *Act*.

### Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the landlords and the female tenant on September 14, 2010 and the male tenant on October 1, 2010 for a month to month tenancy for a total monthly rent of \$680.00 with a security deposit of \$265.00 paid on September 14, 2010.

The landlord has also submitted a copy of a 1 Month Notice to End Tenancy for Cause issued on October 15, 2010 and signed by the male tenant as received on that date with an effective date of November 15, 2010. The Notice cites the tenants have allowed an unreasonable number of occupants in the unit; the tenants or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and the tenants have engaged in illegal that has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The Notice states that the tenants had ten days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within ten days.

The landlord testified the tenants have failed to pay the full rent owed for the months of October (\$45.00), November (\$150.00), and December (\$150.00). The landlord also testified the tenants were loaned money twice in the total amount of \$70.00.

### Analysis

I have reviewed all documentary and testimonial evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on October 15, 2010 and the effective date of the notice is amended to November 30, 2010, pursuant to Section 53 of the *Act*.

Based on the foregoing, I find that the tenants are conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

In the absence of any contrary evidence or testimony, I accept the tenants have failed to pay the landlord rent in the amount of \$345.00 as described above. I decline jurisdiction on the landlords' application to seek compensation for monies loaned to the tenants.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenants**. This order must be served on the tenants and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$395.00** comprised of \$345.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$265.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$135.00**. 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.

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: December 17, 2010.

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Dispute Resolution Officer