



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPB, MNR, MNSD, MNDC, FF

### Introduction

This was the hearing of the landlord's application for an order of possession and a monetary order. The hearing was conducted by conference call. The landlord participated in the hearing. The tenants did not call into the conference and did not participate although they were served with the application for dispute resolution and Notice of Hearing sent by registered mail on December 22, 2010.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

The tenancy began on August 1, 2009. The rent is \$700.00 due in advance on the first day of each month. The tenants paid a \$350.00 security deposit on July 28, 2009. On October 29, 2010 the tenants gave the landlord written notice that they will move out of the rental unit on November 30, 2010. The tenants have not moved out of the rental unit and they have been in arrears of rental payments since giving the notice ending the tenancy. The rent payments made by the tenants have been accepted by the landlord "for use and occupancy only". The tenants paid \$300.00 on account of the rent for January, leaving \$400.00 unpaid.

### Analysis and conclusion

*Order of Possession* – Section 55 (2) (a) of the *Residential Tenancy Act* permits a landlord to request an order for possession when a notice to end tenancy has been given by a tenant. The tenants gave notice that they would move out on November 30, 2010. The landlord testified that since giving the notice the tenants have told her they

intend to move at the end of January and she requested an order for possession effective January 31, 2011. I find that the landlord is entitled to an order of possession effective January 31, 2011, after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

*Monetary Order and Security Deposit* - I find that the landlord has entitled to a monetary award of \$400.00 for unpaid rent for January. the landlord is entitled to recover the \$50.00 fee paid for this application for a total award of \$450.00. I order that the landlord retain the deposit and interest of \$350.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$100.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 17, 2011.

---