



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, 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 in person on February 2, 2011, 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

This tenancy began on June 1, 2009, on a month to month basis. Rent is \$1,400.00 per month, payable on the first day of each month, and a security deposit of \$500.00 was paid on June 1, 2009.

Based on the affirmed testimony and evidence of the Landlord, I find that the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on January 20, 2011, in person. The Notice explains that the Tenants had five days to dispute the Notice. It also explains that if the Tenants do not file an Application to Dispute the Notice within five days, then the Tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice. The Tenants did not file an Application to dispute the Notice or pay the rent.

The Landlord testified that she agreed to reduce the Tenants' monthly rent to \$1,250.00 and is seeking this amount of unpaid rent, instead of \$1,400.00, for January and February, 2011, in addition to the unpaid utilities of \$298.07.

### 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, 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 February 1, 2011.

I find that the Landlord is entitled to an order of possession effective **two 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 **\$2,848.07** comprised of unpaid rent of \$2,500.00, unpaid utilities of \$298.07, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$500.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,348.07**.

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 **\$2,348.07**.

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: February 16, 2011.

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Residential Tenancy Branch