



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OPR, MNR, MNSD, 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.

Although served with the Application for Dispute Resolution and Notice of Hearing in person by the Landlord's Agent on March 26, 2011, the Tenants did not appear.

The Landlord's Agent appeared, gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and make submissions to me.

### Issue(s) to be Decided

Have the Tenants breached the Residential Tenancy Act (the "Act") or tenancy agreement, entitling the Landlord to an Order of Possession, monetary relief for unpaid rent and to recover the filing fee?

### Background and Evidence

The Landlord's Agent could not provide the date the tenancy began, but testified that it was on a month to month basis, monthly rent is \$850.00 and a security deposit of \$425.00 was paid by the Tenants at the beginning of the tenancy.

The Landlord's Agent gave affirmed testimony and supplied evidence that the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on March 8, 2011, in person by the Landlord's Agent. The Notice stated the amount of unpaid rent was \$850.00.

The Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the Tenants had five days to dispute the Notice.

I have no evidence before me that the Tenants applied to dispute the Notice. The Landlord's Agent provided evidence and gave affirmed testimony that the Tenants made partial payments of rent since the issuance of the Notice, and currently owe the

amount of \$805.00. The Landlord testified that the Tenants were issued receipts for the partial rent payments on a "For Use and Occupancy Only" basis.

### Analysis

Based on the above 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 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 **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 **\$855.00** comprised of outstanding rent of **\$805.00** and the **\$50.00** fee paid by the Landlord for this application.

I allow the Landlord to retain the deposit of \$425.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$430.00**.

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

### Conclusion

The Landlord is granted an Order of Possession, may keep the security deposit in partial satisfaction of the claim and is granted a monetary order for the balance due of **\$430.00**.

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: April 14, 2011.

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Residential Tenancy Branch