



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MNR, MND, MNDC, MNSD, FF

### Introduction

This matter dealt with an application by the landlords for an Order of Possession for unpaid rent, a Monetary Order for Unpaid Rent, a Monetary Order for damage to the unit, site or property, a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement, an Order to keep the tenants security deposit and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and was sent by registered mail to the tenants on March 25, 2011. The tenants were deemed to be served the hearing documents on March 30, 2011, the fifth day after they were mailed as per section 90(a) of the *Act*.

Both landlords and one tenant appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Preliminary Issues

At the outset of the hearing the landlords withdrew their application for a Monetary Order for damage to the unit, site or property, for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement, an Order to keep the tenants security deposit. The landlords seek leave to

reapply for these issues as the tenant attending has moved from the rental unit and the remaining tenant denies the landlords access to the unit to assess the damage.

Issue(s) to be Decided

- Are the landlords entitled to an Order of Possession for unpaid rent?
- Are the landlords entitled to a Monetary Order to recover unpaid rent?

Background and Evidence

This month to month tenancy started on October 05, 2010. A written tenancy agreement was in place signed by the landlord and tenants. Rent for this unit is \$750.00 per month due on the 1<sup>st</sup> of each month. The tenants paid a security deposit of \$375.00 on October 05, 2010.

The landlords testify that the tenants did not pay rent when it was due on March 01 and April 01, 2011. On March 18, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for unpaid rent by posting it to the door. The amount owing at this time was \$750.00. Since that time the tenants have not paid rent for April, 2011. This brings the total amount of the landlords claim for unpaid rent to \$1,500.00. The landlord states there are also unpaid utilities but he has not yet received a utility statement from the municipality and is unaware how much is outstanding at this time. The landlord seeks an Order of Possession to take effect as soon as possible so they can re-rent the unit.

The tenant attending does not dispute that they owe rent for March, 2011. The tenant states as she moved from the rental unit on March 20, 2011, in accordance with the 10 day Notice she should not be held responsible for unpaid rent for April, 2011.

The landlord also seeks to recover the \$50.00 filing fee paid for this application.

Analysis

There is no dispute about the amount of outstanding rent for March from the tenant attending; however I refer the tenant to the Residential Tenancy Policy Guidelines #3 and #13 state:

In a month to month tenancy, if the tenancy is ended by the landlord for non-payment of rent, the landlord may recover any loss of rent suffered for the next month as a notice given by the tenant during the month would not end the tenancy until the end of the subsequent month.

Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Consequently, I find the landlords are entitled to recover rent arrears for March and April, 2011 from the tenants. The landlords will receive a Monetary Order for unpaid rent for **\$1,500.00** pursuant to s. 67 of the *Act*.

As the landlords have been successful in this matter I find they may recover the **\$50.00** filing fee paid for this application from the tenants pursuant to s.72(1) of the *Act*. The landlord will receive a monetary order for **\$1,550.00**:

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlords. The notice is deemed to have been received by the tenants on March 21 and the effective date of the notice is amended to March 31, 2011 pursuant to section 53 of the *Act*.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice and the landlord is entitled to an Order of Possession pursuant to s. 55 of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,550.00**. The order must be served on the tenants and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlords effective **two days after service**. This order must be served on the tenants and may be filed in the Supreme Court 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: April 14, 2011.

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Residential Tenancy Branch