



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPB, MNR, MNDC, 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 money owed for damage or loss, to retain the tenants' security deposit, and to recover the filing fee.

The parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in 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 and monetary relief?

### Background and Evidence

The evidence shows that this original, fixed term tenancy began on December 1, 2007, is continuing now on a month to month basis, monthly rent is \$1,300.00 and the tenants paid a security deposit of \$650.00 at the beginning of the tenancy.

The landlord 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 July 12, 2011, via personal delivery. The Notice stated the amount of unpaid rent was \$1,350.00 as of July 1, 2011.

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.

Although the Notice was dated incorrectly, the tenants acknowledged receipt of the Notice on July 12, 2011. I have therefore amended the Notice to be dated July 12, 2011.

The landlord testified that since the issuance of the Notice, the tenants made a payment of \$600.00 on July 13, 2011, but failed to pay the balance owing listed on the Notice and have not paid rent for the month of August, leaving a balance of unpaid rent owing in the amount of \$2,075.00. However, I note that my calculations show a balance owing of \$2,050.00 (\$1,350.00 listed on the Notice, less \$600.00 payment made by the tenants on July 13, 2011, plus rent of \$1,300.00 for August).

The tenants agreed that rent the balance of rent for July was not paid or that rent for August was not paid. The tenant testified that he wanted to pay rent, but has been unemployed.

### 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, at the landlord's request, **on August 31, 2011 at 1:00 p.m.** This order is a **final, legally binding order**, and may be filed in the Supreme Court should the tenants fail to comply with this order.

I find that the landlord has established a total monetary claim of **\$2,100.00** comprised of outstanding rent of **\$2,050.00** for July and August and the **\$50.00** fee paid by the landlord for this application.

At the landlord's request, I allow the landlord to retain the tenants' security deposit and interest of **\$660.59** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,439.41**.

I am enclosing a monetary order for **\$1,439.41** with the landlord's Decision. This order is a **final, legally binding order**, and may be filed in the Provincial Court (Small Claims) should the tenants fail to comply with this monetary order.

Conclusion

The landlord is granted an Order of Possession, may keep the security deposit and interest in partial satisfaction of the monetary claim and is granted a monetary order for the balance due of **\$1,439.41**.

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: August 23, 2011.

---

Residential Tenancy Branch