



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened by way of conference call in repose to the landlords' application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on September 23, 2011. Mail receipt numbers were provided in the landlord's documentary evidence for each of the tenants. The tenants are deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords agent appeared, gave sworn testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issues(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a Monetary Order to recover unpaid rent?

### Background and Evidence

This fixed term tenancy started on June 01, 2011 and was due to expire on May 31, 2012. Rent for this unit is \$785.00 per month and is due on the first of each month. A written tenancy agreement has been provided by the landlord in evidence.

The landlord testifies that the tenants owed a balance of rent from July, 2011 of \$237.50. The tenants also failed to pay any rent for August or September, 2011. The total amount of outstanding rent is \$1,807.50. The landlord issued a 10 Day Notice to End the Tenancy for unpaid rent on September 14, 2011. This was posted to the tenant's door and was deemed to have been served three days after posting. The tenants had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on September 24, 2011. The tenants did not pay the outstanding rent or dispute the Notice within five days.

The landlord seeks a Monetary Order to recover the outstanding rent and filing fee paid for this proceeding and seeks an Order of Possession to take effect as soon as possible.

### Analysis

The tenants did not appear at the hearing, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that the landlords are entitled to recover rent arrears for July, August and September, 2011 to the sum of **\$1,807.50** pursuant to s.67 of the *Act*.

As the landlords have been successful in this matter, they are also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlords will receive a monetary order for the balance owing of **\$1,857.50**

I accept that the tenants were served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. As

this Notice was posted on the tenants' door it was deemed served three days after posting and therefore the amended date of the Notice would be September 27, 2011 pursuant to s. 53 of the *Act*. The tenants did not pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

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 grant the landlord an order of possession.

### 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 **\$1,857.50**. The order must be served on the respondents 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 on the tenants. This order must be served on the Respondent 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: October 21, 2011.

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Residential Tenancy Branch