



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, OPR

### Introduction

This hearing was convened by way of conference call in repose to the landlord's application for an Order of Possession for unpaid rent and for a Monetary Order for unpaid rent.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, sent via registered mail on December 15, 2011. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. The landlord was permitted to provide additional evidence after the hearing had concluded. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(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 September 07, 2011 and was due to expire on August 31, 2012. Rent for this unit is \$990.00 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 failed to pay rent for November 2011 of \$990.00. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent on November 27, 2011. This was handed to the tenant in person. The tenants had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on December 08, 2011. The tenants did not pay the outstanding rent or dispute the Notice within five days. Since that time the landlord testifies that the tenants also failed to pay rent for December, 2011 of \$990.00.

The landlord seeks a Monetary Order to recover the outstanding rent for November and December, 2011 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; Section 26 of the Act states:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently I find in favor of the landlords claim for unpaid rent for November and December, 2011 to the sum of **\$1,980.00** and a Monetary Order has been issued to the landlord for this amount pursuant to s.67 of the Act.

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

tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. 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 **\$1,980.00**. 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: January 05, 2012.

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Residential Tenancy Branch