



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MND, MNR

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent a Monetary Order for unpaid rent and damage to the rental unit.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions. Tenant C.J was served with the notice of dispute resolution; however tenant M.L attended and identified himself as the primary tenant.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of a two bedroom basement suite. Pursuant to a written agreement, the fixed term tenancy started on March 1, 2011 and was to end on February 29, 2012. The rent is \$775.00 per month and the landlord stated that she did not receive a security deposit. The landlord testified that she purchased the home in

December 2009 with the tenants in place. She stated that C. J signed the fixed term tenancy agreement, but not M.L.

The landlord stated that the tenants owed an accumulated rental arrears of \$50.00 between August and December 2011, amended her claim to \$25.00 in rent arrears for January 2012, and \$395.00 for February 2012 for the sum of \$470.00.

In addition, the landlord claimed \$50.00 for a hole in a wall, and \$900.00 for a damaged fridge.

M.L testified that the rent arrears are his roommate's portion. He acknowledged receipt of the landlord's notice to end tenancy dated February 3<sup>rd</sup>, 2012, with an effective date of February 8<sup>th</sup>, 2012. M.L stated that he and his roommate made two attempts to pay the landlord in person on February 8<sup>th</sup>; he stated that the landlord did not answer the door on either occasion, but that on February 9<sup>th</sup> he met the landlord who told him that it was now too late.

The landlord argued that she was home on February 8<sup>th</sup>, and that if the tenants had knocked at her door she would have answered.

### Analysis

The landlord bears the burden to prove the grounds to end the tenancy. There was no documentary evidence before me from the landlord. When one party testifies of the facts in a way that contradicts the other party, without other substantive evidence the party making the claim has not met the burden of proof, on the balance of probabilities, and the claim must fail. When questioned about their oral evidence, both parties offered a different version of the facts. Therefore the burden of proof was not met.

The landlord provided no documentary evidence concerning damages either.

Conclusion

The landlord's application is dismissed with leave to reapply.

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: February 22, 2012.

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Residential Tenancy Branch