



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, FF, MNR, OPR, MNSD

### Introduction

This hearing dealt with cross applications. The landlord is seeking an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants are seeking to have the Notice to end tenancy set aside. The landlord participated in the conference call hearing but the tenant(s) did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by personal service that was witnessed by the landlord's daughter on February 7, 2012. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence. The landlord gave affirmed evidence.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Are the tenants entitled to have the Notice to end tenancy set aside?

### Background and Evidence

The tenancy began on or about May 1, 2009. Rent in the amount of \$850.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$425.00. The tenant failed to pay rent in the month(s) of January and on January 30, 2012 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of February. At the time of today's hearing the landlord advised the amount of rent

outstanding is \$1230.00. The landlord also advised that the tenant has moved out and no longer requires an order of possession; accordingly I dismiss that portion of the landlord's application.

### Analysis

Both parties have applied for dispute resolution however the landlord is the only one that participated in the teleconference. As the tenant's did not dial in or provide any documentation to support their claim, I dismiss the tenant's application in its entirety without leave to reapply.

I accept the landlord's undisputed testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

As for the monetary order, I find that the landlord has established a claim for \$1230.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$425.00 deposit. I grant the landlord an order under section 67 for the balance due of \$855.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted a monetary order for \$855.00. The landlord may retain the security deposit.

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