

## **DECISION**

Dispute Codes      OPR

### Introduction

This is an application filed by the Landlord for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent.

Both parties attended the hearing by conference call and gave testimony. Neither party submitted any evidence. As both parties have attended the hearing and have submitted no evidence, I am satisfied that each has been properly served with the notice of hearing under the Act.

The Landlord filed an amendment to the application to include a second Tenant, M.R.B. Although this Tenant did not attend, I am satisfied that the application for dispute can be amended to include this second Tenant. Any subsequent documents shall reflect this.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession for unpaid rent?

### Background and Evidence

The Landlord states that the Tenants have never paid rent or utilities and have been served a 10 day notice to end tenancy for unpaid rent. The Tenant disputes this stating that the Landlord rents rooms to several Tenants and have an agreement in place for services for rent in exchange. Neither party has submitted any evidence.

### Analysis

As explained to the parties during the hearing the onus or burden of proof is on the party making the claim, in this case the Landlord is responsible as he has made an application. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The Landlord has failed to provide any evidence in support of unpaid rent. The Landlord has failed to provide a copy of the 10

day notice or of a tenancy agreement. I find on a balance of probabilities that the Landlord has failed and his application for an order of possession is dismissed.

### Conclusion

The Landlord's application is dismissed.

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: March 26, 2012.

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Residential Tenancy Branch