



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, MNR, MNSD, FF

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. Agents for the landlord participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, neither tenant appeared. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on January 1, 2008. The tenants' monthly rent is calculated annually in consideration of their income. For 2011 and January 2012, monthly rent was \$556.00; this was required to be paid in two instalments, each in the amount of \$278.00 on the 5<sup>th</sup> and 28<sup>th</sup> day of the month. Effective February 1, 2012, rent became \$619.00 per month. A security deposit of \$225.00 was collected at the start of tenancy.

A previous hearing was held in a dispute between these parties on February 7, 2012, with a decision issued by date of February 20, 2012 (file # 784323). The decision documents agreement between the parties that as at February 7, 2012, no rent had been paid for either January or February 2012. Accordingly, the dispute resolution officer found that the 10 day notice to end tenancy for unpaid rent dated January 17, 2012 was valid. However, an order of possession in favour of the landlord was not granted, as the landlord did not make an oral request for same during the hearing. There was no application before the dispute resolution officer from the landlord in the previous hearing and, accordingly, no monetary order was issued in favour of the landlord. However, after reviewing the documentary evidence before her, the dispute

resolution officer found that it appeared there was an unpaid balance of rent outstanding in the amount of \$278.00 as at December 11, 2011. At the same time the dispute resolution officer further stated that “the evidence does not establish, on a balance of probabilities, that the tenants did not pay the 2011 rent in full...”

During the present hearing, the landlord’s agents testified that as the tenants vacated the unit on February 29, 2012, the application for an order of possession is withdrawn. No forwarding address was provided. The landlord’s agents also testified that the tenants made no further payment toward rent subsequent to the last hearing.

### Analysis

The application for an order of possession is withdrawn.

As to the application for compensation, in view of the finding in the decision of February 20, 2012, that there was insufficient evidence to establish on a balance of probabilities that “the tenants did not pay the 2011 rent in full,” the landlord’s agents withdrew this aspect of the claim. Compensation presently sought by the landlord is as follows:

\$556.00: unpaid rent for January 2012  
\$619.00: unpaid rent for February 2012  
\$ 50.00: filing fee

Total: \$1,225.00

I order that the landlord retain the security deposit of \$225.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,000.00 (\$1,225.00 - \$225.00).

### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,000.00**. Should it be necessary, this order may be served on the tenants, filed in the Small Claims 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: March 13, 2012.

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Residential Tenancy Branch