



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing was convened by way of conference call in response to an application made by the landlord for an Order of Possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenants for the cost of this application.

The landlord attended the hearing, provided evidence in advance of the hearing and gave affirmed testimony. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by personally handing them to one of the tenants, neither of the named tenants attended.

All evidence and testimony provided have been reviewed and are considered in this Decision.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent or utilities?

Is the landlord entitled to a monetary order for unpaid rent or utilities?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on March 1, 2012 and the tenants still reside in the rental unit. Rent in the amount of \$800.00 per month is payable in advance on the 1<sup>st</sup> day of each month. On February 22, 2012 the parties signed a tenancy agreement and the landlord collected a security deposit from the tenants in the amount of \$400.00.

The landlord testified that the tenants failed to pay rent when it was due for the month of April, 2012. The landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. A copy of page 1 of the 2-page form was provided for this hearing, and it states that the tenants failed to pay rent in the amount of \$800.00 that was due on April 1, 2012, but contains no effective date or date that the tenants are

expected to vacate the rental unit. The landlord is not certain whether or not the tenants received page 2 because that is the reverse side of the form.

The landlord further testified that the police have been called to the rental unit on 7 occasions since the beginning of the tenancy but the tenants jump out the windows and run away when the police arrive. The tenants have not only failed to pay rent for April, 2012, but now May's rent is also due and the tenants are disturbing other tenants in the building.

The landlord requests an Order of Possession and a monetary order for unpaid rent.

### Analysis

The *Residential Tenancy Act* states that once a tenant is served with the notice to end tenancy, the tenant must pay the rent in full or dispute the notice within 5 days of service or deemed service. If the tenant does neither, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must move out by that date. In this case, the effective date of the notice has not been written on the form, and therefore, the tenants cannot be conclusively presumed to have accepted that the tenancy ends on the effective date.

The landlord is at liberty to serve another 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The landlord testified that the tenants are now in arrears \$1,600.00 and the tenants will be required to pay that amount within 5 days of being served with the notice to end the tenancy. If the tenants do not pay the rent in full within that 5 day period, the landlord may apply for an Order of Possession and then instruct a bailiff to move the tenants from the rental unit. The landlord must also ensure that both pages of the 2-page form are served on the tenants.

### Conclusion

For the reasons set out above, the landlord's application is hereby 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: May 02, 2012.

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Residential Tenancy Branch