



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, MNDC, MNSD, OPR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

### Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

### Background and Evidence

Based on the affirmed testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for non-payment of rent. The tenants have not paid all the outstanding rent and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. The tenants vacated the rental unit on April 26, 2012.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Although the landlord is entitled to an order of possession in these circumstances, the tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the tenant has failed to pay rent under the Act and tenancy agreement.

I find the landlord has established a total monetary claim of **\$2,400.00** comprised of the balance of rent owed for September 2011, March 2012, April 2012 and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and

interest of **\$400.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$2,000.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The tenants failed to pay rent and did not file to dispute the Notice to End Tenancy, and vacated the rental unit. Therefore, an order of possession is not required.

The landlord is granted a monetary order for rent due, and may keep 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: May 10, 2012.

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Residential Tenancy Branch