



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 3: 15 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 3:00 p.m. The female landlord (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she handed one of the tenants a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on August 9, 2012. She testified that she sent copies of the landlords' dispute resolution hearing package to both tenants by registered mail on August 17, 2012. She provided the Canada Post Tracking Numbers to confirm these registered mailings. I am satisfied that the landlords served the above documents in accordance with the *Act*.

At the hearing, the landlord testified that the tenants vacated the rental unit by August 31, 2012. As such, the landlord withdrew the landlords' application for an Order of Possession. The landlords' application for an Order of Possession is withdrawn.

### Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Are the landlords entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Are the landlords entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

This periodic tenancy commenced on July 1, 2011. Monthly rent was set at \$1,650.00, payable in advance on the first of each month. The landlords continue to hold the \$825.00 security deposit paid for this tenancy on June 18, 2011.

The landlords' application for a monetary award of \$2,392.15 included a request for unpaid rent of \$1,650.00 for August 2012 and \$825.00 for unpaid rent owing from May 2012. The landlord testified that the tenants did not pay anything further towards the \$1,616.65 identified as outstanding rent due on August 9, 2012. At the hearing, the landlord testified that she had erred in the amount identified in the application for dispute resolution. She said that \$2,475.00 was actually outstanding for this tenancy. She testified that Tenant CU did not pay his half of the rent for May 2012. She said that the tenants did pay all of their rent for June and July 2012. Other than the landlords' application for dispute resolution, the only written evidence submitted by the landlords was a copy of their 10 Day Notice.

### Analysis

Although I have given the landlords' application for dispute resolution careful consideration, I find that their failure to provide a tenant ledger or copies of receipts for rent payments calls into question the amount of the monetary award they are seeking. Based on the 10 Day Notice, I find that the amount identified as owing on August 9, 2012 was \$1,616.65. The landlords have not demonstrated their entitlement to additional funds owing beyond that amount. As such, I find that the landlords are entitled to a monetary award of \$1,616.65, the amount of unpaid rent identified as owing as of the date of their 10 Day Notice.

I allow the landlords to retain the security deposit for this tenancy plus applicable interest in partial satisfaction of this monetary award. No interest is payable over this period. As the landlords have been successful in their application, I allow the landlords to recover their filing fee from the tenants.

### Conclusion

I issue a monetary Order in the landlords' favour under the following terms which allows the landlords to recover unpaid rent and the filing fee for their application and to retain the tenants' security deposit:

Item	Amount
Rent Identified as Owing as of August 1, 2012 as per the 10 Day Notice	\$1,616.65
Less Security Deposit	-825.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$841.65</b>

The landlords are provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

The landlords' application for an Order of Possession is withdrawn.

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: September 19, 2012

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Residential Tenancy Branch