



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNSD, FF, MNDC

### Introduction

This hearing was convened in response to applications by the tenant and the landlord.

The tenants' application is seeking an order as follows:

1. For money owed or compensation for damage or loss under the Act; and
2. To recover the filing fee from the landlord.

This matter was set for hearing by telephone conference call at 2:00 P.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenants did not attend the hearing by 2:10 P.M, and the landlord appeared and was ready to proceed, I dismiss the tenants claim without leave to reapply.

The landlord's application is seeking an order as follows:

1. For an order of possession for unpaid rent;
2. A monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the filing fee from tenants.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on August 16, 2012, the tenants did not appear. I find that the tenants have been duly served in accordance with the Act.

### Issue(s) to be Decided

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

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Is the landlord entitled to recover the cost of the filing fee?

### Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on August 2, 2012, by personal service. The notice informed the tenant that the notice would be cancelled if the rent was paid

within five days. The notice also explains the tenants have five days to dispute the notice.

### Analysis

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

The tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of \$1,115.00 comprised of unpaid rent for August 2012, September 2012, and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the deposit and interest of \$415.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$700.00**.

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

### Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 17, 2012.

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Residential Tenancy Branch