



# Dispute Resolution Services

Page: 1

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 the landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenants for the cost of this application.

One of the tenants and the landlord's agent attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a Monetary Order due to unpaid rent?

### Background and Evidence

The parties agree that this month to month tenancy started on March 01, 2011. This is a subsidized rental unit. The market rent is \$635.00 and the tenants pay a monthly contribution of \$595.00. Rent is due on the first of each month. A written tenancy agreement has been provided by the landlord in evidence.

The landlord testifies that the tenants owe a balance of rent from July, 2012 of \$195.00. The tenants also failed to pay any rent for August, 2012. The landlord issued a 10 Day Notice to End the Tenancy for unpaid rent on August 08, 2012. This was mailed to the tenants and was deemed to have been served five days after mailing. The tenants had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on August 23, 2012. The tenants did not pay the outstanding rent or dispute the Notice within five days. The landlord testifies that the tenants also failed to pay rent for September and October, 2012. The total amount of outstanding rent is \$1,980.00.

The landlord seeks a Monetary Order to recover the outstanding rent and filing fee paid for this proceeding and seeks an Order of Possession to take effect as soon as possible.

The tenant attending testifies that he no longer lives in the rental unit. The tenant agrees he did not give the landlord notice to inform the landlord that he had vacated the unit until the middle of September, 2012. The tenant attending accepts that he is still responsible for the rent along with the other tenant. The tenant testifies that he has tried to call the landlord to work out a repayment plan for the outstanding rent but the landlord refused to meet with him.

The landlord testifies that they did inform this tenant that they would have to meet with both tenants to work out a repayment plan and the tenants have not arranged a time to both come and meet with the landlord. The landlord testifies that if the tenants arrange to come and meet with the landlord before Friday October 05, 2012 to discuss a repayment plan then the landlord may not enforce the Order of Possession.

### Analysis

I refer the tenants to Section 26 of the *Residential Tenancy Act (Act)* which states:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

The tenant does not dispute that they owe this rent and consequently, I find that the landlord is entitled to recover rent arrears for July, August, September and October, 2012 to the sum of **\$1,980.00** pursuant to s.67 of the *Act*.

As the landlord has been successful in this matter, the landlord are also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlords will receive a Monetary Order for the balance owing of **\$2,030.00**

I accept that the tenants were served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. As this Notice was mailed it was deemed served five days after mailing. The tenants did not pay the outstanding rent by August 18, 2012 nor did they apply to dispute the Notice to End Tenancy by this date.

Based on the foregoing, I find that the tenants are conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession.

### Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,030.00**. The order must be served on the respondents and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlords effective **two days** after service on the tenants. This order must be served on the Respondents and may be filed in the Supreme 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: October 04, 2012.

---

Residential Tenancy Branch