



# 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 for unpaid rent, an order to retain the security deposit in partial satisfaction of the rent claim, and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified that the Tenants were served with the Notice of Hearing and the Application of the Landlord by registered mail, sent on October 4, 2012. Under the Act, registered mail is deemed served five days after mailing. Although the Tenants did not appear at the hearing, I find they were duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matter

At the outset of the hearing, the Agent for the Landlord testified that the Tenants had vacated the rental unit on November 1, 2012. Therefore, I find the request for an order for possession is no longer necessary and I dismiss that portion of the Application.

### Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to monetary relief?

### Background and Evidence

This tenancy began on June 1, 2011, with the parties entering into a written, standard form tenancy agreement. During the course of the tenancy, on about April 1, 2012, the Tenants moved to a different rental unit, with rent of \$750.00 payable per month and the security deposit paid to the Landlord was increased to a total of \$375.00.

Based on the affirmed testimony of the Landlord, I find that the Tenants were served with a 10 day Notice to End Tenancy for non-payment of rent on August 9, 2012, by personal service.

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 November 1, 2012.

The Agent for the Landlord testified that the Tenants owe \$375.00 for August rent, and \$750.00 per month for each of September and October 2012.

### Analysis

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

Although the Landlords are entitled to an order of possession in these circumstances, the Tenants have vacated the rental unit and therefore, an order of possession is no longer required, and that portion of the Application is dismissed.

I also find that the Tenants have failed to pay rent under the Act and tenancy agreement.

I find the Landlords have established a total monetary claim of **\$1,925.00** comprised of \$375.00 for August rent, and \$750.00 per month for each of September and October 2012, plus the \$50.00 fee paid by the Landlord for this application.

I order that the Landlords retain the deposit and interest of **\$375.00** in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$1,550.00**.

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, received a 10 day Notice to End Tenancy 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 Landlords are granted a monetary order for rent due, may keep the security deposit and interest, and have a monetary order for the balance due.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: November 05, 2012.

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Residential Tenancy Branch