



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNR FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "*Act*") seeking an order of possession for unpaid rent or utilities, a monetary order for unpaid rent or utilities, and to recover the filing fee.

An agent for the landlord (the "agent") appeared by conference call and gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and make submissions during the hearing.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") was considered. The agent testified that the Notice of Hearing package which also contained evidence from the landlord was served via registered mail to the tenants at the rental unit address November 8, 2012. A registered mail receipt tracking number was provided during the hearing. The agent testified that the tenants were residing in the rental unit at the time the package was mailed to the tenants. I find the tenants were served accordance with the *Act*.

### Preliminary and Procedural Matters

At the outset of the hearing, the agent requested to amend their application to substitute the personal name provided on the application with the name of the company of the landlord. The request of the agent was granted, and the application was amended to reflect the company name of the landlord.

The agent also requested to withdraw the landlord's application for an order of possession, as it was no longer necessary. The agent testified that the tenants vacated the rental unit on or about November 24, 2012.

### Issue to be Decided

- Is the landlord entitled to a monetary order under the *Act*?

### Background and Evidence

A fixed term tenancy began on January 28, 2012 and reverted to a month to month tenancy on July 31, 2012. Rent in the amount of \$1,120 was due on the first day of each month. The tenants paid a security deposit of \$560.00 which the landlord continues to hold.

Documentary evidence filed by the landlord indicates that the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") dated October 10, 2012, by posting to the tenants' door on October 10, 2012. The effective date on the Notice is October 25, 2012. The Notice states that the tenants had five days to pay the rent in full or apply for dispute resolution or the tenancy would end on the effective date of the Notice. The tenants did not apply to dispute the notice to end tenancy or pay the full rent in full within five days from the date of service.

The agent withdrew the landlord's request for \$40.00 in parking fees as the tenancy agreement did not specify parking fees. As a result, the original monetary claim of \$2,240.00 was reduced during the hearing to \$2,200.00 and is comprised of the following:

May 2012 rent owing	\$320.00
July 2012 rent owing	\$400.00
August 2012 rent owing	\$220.00
September 2012 rent owing	\$620.00
November 2012 rent owing	\$1,120.00
<b>Subtotal</b>	<b>\$2,680.00</b>
Less October 2012 rent overpayment	(\$480.00 credit)
<b>TOTAL RENT OWING BY TENANTS</b>	<b>\$2,200.00</b>

### Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Claim for unpaid rent** – The agent reduced the landlord's claim from \$2,240.00 to \$2,200.00 during the hearing. Pursuant to section 26 of the *Act* the tenants must pay rent when it is due in accordance with the tenancy agreement. The landlord has provided undisputed testimony that \$2,200.00 in rent remains unpaid for the months of May, July, August, September and November, 2012.

Based on the above, **I find** that the tenants have failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. **I find** the landlord has met the burden of proof and has established a monetary claim in the amount of \$2,200.00 in unpaid rent.

The landlord is holding a security deposit in the sum of \$560.00. The security deposit has accrued no interest to date. As the landlord has succeeded with their application, **I grant** the landlord the recovery of the **\$50.00** filing fee.

**I find** the landlord has established a total monetary amount of **\$2,250.00** comprised of \$2,200.00 in unpaid rent and the \$50.00 filing fee. **I authorize** the landlord to retain the full security deposit of **\$560.00** in partial satisfaction of the claim and **I grant** the landlord a monetary order pursuant to section 67 of the *Act* for the balance due of **\$1,690.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

I find that the landlord has established a total monetary claim of **\$2,250.00**. I authorize the landlord to retain the security deposit of \$560.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,690.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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 *Residential Tenancy Act*.

Dated: December 06, 2012

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Residential Tenancy Branch