



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNR, MNSD, OPR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession based on a 10 day Notice to End Tenancy for unpaid rent, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only 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 Landlord testified that the Tenant was personally served with the Notice of Hearing and Application on January 2, 2013, although the Tenant did not appear at the hearing. I find the Tenant has been served with the Notice of Hearing and Application.

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 Issue

The Landlord testified that the Tenant's cheque for the security deposit and first month of rent were returned due to insufficient funds. As the Landlords have not been paid a security deposit, I dismiss the portion of the Application dealing with the security deposit.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlords to an Order of Possession and monetary relief?

### Background and Evidence

Based on the affirmed testimony of the Landlord, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on December 4, 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 Tenant had five days to dispute the Notice.

The Landlord testified that the Tenant has failed to pay rent for October, November, and December of 2012, and failed to pay January 2013 rent as well. There is no evidence the Tenant filed an Application to dispute the Notice within five days of service.

### 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 **\$6,500.00** comprised of \$1,600.00 a month in rent for each of October, November, and December of 2012, and January of 2013 and the \$100.00 fee paid by the Landlord for this application.

I grant the Landlord an order under section 67 for the balance due of **\$6,500.00**. 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, except as 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: January 22, 2013

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Residential Tenancy Branch