



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order for unpaid rent and an order to retain the security deposit in full satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

### 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

The tenancy began on November 1, 2008. Current rent in the amount of \$835.00 was payable on the first of each month. A security deposit of \$400.00 was paid by the tenant.

The parties agreed the tenants were served with a notice to end tenancy for non-payment of rent on January 2, 2013, by posting to the door. The notice informed the tenants 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 parties agreed on January 2, 2013, the outstanding rent owed was \$335.00 and a \$25.00 late fee.

The landlord testified on January 21, 2013, they received two money orders totaling \$385.00 and a further payment of \$750.00 on February 2, 2013. The landlord stated they are not reinstating the tenancy and seek a monetary order in the amount of \$85.00 for unpaid rent and late fee.

The tenant does not dispute the payments made or the amount owed. The tenant acknowledged they did not file an application to dispute the notice.

### Analysis

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

The tenants did not pay the outstanding rent within five days of receiving the notice 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 **\$135.00** comprised of unpaid rent for February, late fee and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain from the security deposit and interest the sum of \$135.00 in full satisfaction of the claim.

### Conclusion

The tenants failed to pay rent within five days of receiving the notice and did not file to dispute the notice to end tenancy. The tenants are 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 above monetary claim from the security deposit and interest in full satisfaction of the claim.

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: February 07, 2013

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Residential Tenancy Branch

