



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

*OPR, MNR, MNSD*

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent. The landlord also applied to retain the security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent? Did the tenant pay a security deposit?

### **Background and Evidence**

The tenancy started on February 01, 2013. The total rent is \$2,300.00 per month due on the first of the month and the security deposit was \$750.00. The tenants moved in a few days prior to the start of tenancy and on February 01, due to some problem with the tenants' bank account, the rent and deposit cheques did not clear.

On February 01 – the first day of the tenancy, the landlord served the tenants with a notice to end tenancy for non payment of rent and security deposit. The tenants paid rent within the five day time frame but failed to pay the security deposit.

The tenants stated that they attempted to pay rent for March and the landlord refused to accept it after the tenants did not agree to sign an occupancy agreement. The landlord is applying for an order of possession and for a monetary order in the amount of \$2,300.00 for unpaid rent for March and \$750.00 for the security deposit.

### **Analysis:**

Based on the sworn testimony of both parties, I find that on February 01, 2013, the landlord served the tenant with a ten day notice to end tenancy for unpaid rent and the security deposit.

The ten day notice to end tenancy for unpaid rent and utilities applies to rent and utilities only. If the tenant had failed to pay the security deposit, then the landlord had to serve the tenant with a one month notice to end tenancy for cause and check the box that states “*security or pet damage deposit was not paid within 30 days as required by the tenancy agreement*”.

Based on the sworn testimony of the both parties, I find that the tenants received the notice to end tenancy for unpaid rent, on February 01, 2013. Upon receipt of the notice the tenants had five days to pay rent or dispute the notice. If the tenants did neither then pursuant to Section 46 the tenancy will end on the date set out in the notice. In this case the tenants paid rent within five days of receiving the notice to end tenancy. Therefore, I must set aside the notice to end tenancy.

The landlord may serve a one month notice to end tenancy for nonpayment of the security deposit if the tenants have failed to pay the security deposit.

### **Conclusion**

The notice to end tenancy is set aside and the tenancy will continue.

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: March 05, 2013

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Residential Tenancy Branch

