



# 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 was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenants for the cost of this application.

At the outset of the hearing the landlord advised that the tenants are no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, and the landlord gave sworn testimony that an adult person residing at the rental unit with the tenants was served in person on February 22, 2013.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

Is the landlord entitled to a Monetary Order to recover unpaid rent?

### Background and Evidence

The landlord testifies that this month to month tenancy started on January 15, 2013. Rent for this unit was \$850.00 per month and was due on the 1<sup>st</sup> day of each month.

The landlord testifies that the tenants failed to pay rent for February, 2013 of \$850.00. The landlord served one of the tenants in person with a 10 Day Notice to End Tenancy on February 06, 2013. This Notice informed the tenants that they had five days to pay the outstanding rent or apply to dispute the Notice or the tenancy would end. The landlord testifies that the tenants did not pay the rent and also failed to move from the rental unit by the effective date of the Notice. The landlord testifies that the tenants had also sublet the rental unit to two other occupants without the landlord's permission

The landlord testifies that a 48 hour Notice of entry was given to the tenants and the landlord entered the rental unit on March 02, 2012 to find that the tenants and the occupants had vacated the rental unit sometime between February 28 and March 02, 2013. The landlord seeks to recover the unpaid rent of \$850.00 and the \$50.00 filing fee paid for this application.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the landlord.

Section 26 of the Act states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently as the tenants have not appeared to dispute the landlord's evidence I find the landlord has established a claim for a Monetary Order to recover the sum of **\$850.00** in rent for February, 2013 pursuant to s. 67 of the *Act*.

As the landlord has been successful with his monetary claim I find the landlord is entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s.72(1) of the *Act*.

### Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$900.00**. The order must be served on the respondents and is enforceable through the Provincial Court as an order of that Court.

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 18, 2013

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Residential Tenancy Branch

