



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding J.D. BESWICK HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPL, 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 utilities and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on March 2013, Canada post tracking numbers were provided as evidence, the tenants did not appear. I find that the tenants have been duly served in accordance with the Act.

The landlord's agent appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

### 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 for unpaid rent?  
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

Based on the testimony of the landlord's agent, I find that the tenants were served with a 2 month notice to end tenancy for landlord use of property on November 8, 2012, by posting to the door of the rental unit. The notice informed the tenant that they have the right to dispute the notice within 15th days after it was received. The notice further explains that if the tenants do not file an Application for Dispute Resolution within 15 days that they are presumed to have accepted that the tenancy is ending and must move out of the rental unit by the date set out in the notice.

In this case, the landlord provided the tenant with more than two months notice and the effective date on the notice was February 28, 2013. The landlord's agent stated that it

was further agreed by the parties that effective date of the notice was changed to March 31, 2013 and the tenants were provided compensation for receiving the 2 month notice in the form of rent for March 2013. The agent stated the tenants did not move-out of the rental as required by the notice and seeks an order of possession.

The landlord's agent testified that the tenants were in rent arrears in the amount of \$2,900.00 as of February 29, 2013. The agent stated that during the month of March the tenants paid \$600.00 towards the outstanding amount and they currently owe \$2,300 in outstanding rent arrears.

The landlord's agent testified that the tenants are required to pay rent for April 2013, as they have failed to vacate the unit. The landlord seeks to recover unpaid rent for April 2013, in the amount of \$1,100.00.

The landlord' agent testified the tenant were also required to pay for the water utility, however, they failed to pay their account for 2012, and the amount of \$601.65 was transferred to their property taxes. The landlord stated the tenants have also failed to pay the current balance up to March 1, 2013, in the amount of \$205.79 and seeks compensation in the amount of \$807.44. Filed in evidence is a copy of the water bill.

### Analysis

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

The tenants have not did not apply to dispute the Notice and is therefore conclusively presumed under section 4(9) 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.

The evidence of the landlord's agent was the tenants failed to pay all rent owed. I find the tenants have breached the Act and the landlord suffered a loss. Therefore, I find the landlord is entitled to recover unpaid rent for the balance due at the end of February 2013, (\$2,900.00) less the payment made (\$600.00) and rent for April 2013 (\$1,100.00), in the amount of **\$3,400.00**.

I also find the tenants were adequately compensation for receiving the 2 month notice to end tenancy in the form of rent for March 2013.

The evidence of the landlord's agent was the tenants failed to pay their water bill from 2012 and that was transferred to their property taxes. The evidence of the landlord's agent was the tenants have not paid their water bill for 2013. This is support by the document evidence. I find the tenant's have breach the Act and the landlord suffered a

loss. Therefore, I find the landlord is entitled to recover unpaid utilities in the amount of **\$807.44.**

I find that the landlord has established a total monetary claim of \$4,257.44 comprised of unpaid rent, utilities and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the deposit and interest of \$550.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$3,707.44.**

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

The tenant failed to file to dispute the notice to end tenancy. The tenant is 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. The landlord is granted a monetary order.

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: April 24, 2013

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Residential Tenancy Branch

