



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, OPR, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order authorizing her to retain the security deposit. Both parties were represented at the conference call hearing.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Is the landlord entitled to an order of possession?

### Background and Evidence

The facts are not in dispute. The tenancy began in December 2011 at which time the tenants paid a \$500.00 security deposit and a \$500.00 pet deposit. Rent was set at \$1,000.00 per month. The tenants fell into arrears and on March 6, 2013, the landlord served the tenants with a 10 day notice to end tenancy for unpaid rent (the "Notice"). The tenants paid their rent in full on March 15<sup>th</sup> for use and occupancy. On April 1, the landlord negotiated a post dated cheque for \$500.00 which had been provided by the tenants. The cheque was returned because payment had been stopped. The tenant provided a replacement cheque for \$500.00 to the landlord and the landlord testified that she negotiated the cheque on Friday, April 12, but is concerned that it will not clear the account.

### Analysis

I find that the tenants received the Notice on March 6 and that they did not dispute the Notice or pay the arrears within 5 days of receipt. Section 46(5) of the Act provides that if tenants do not dispute this type of notice or pay the arrears in full within 5 days of

receipt, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice.

I find that the Notice is effective to end the tenancy. At the hearing, the landlord asked for an order of possession effective April 22, 2013. As the tenants have only paid rent for half of April, I find the landlord's request to be reasonable and I grant her an order of possession effective on that date. This order must be served on the tenants. If the tenants fail to comply with the order, it may be filed in the Supreme Court and enforced as an order of that Court.

As for the monetary claim, the tenant assured the landlord that the cheque for \$500.00 for April's rent will be negotiable. I dismiss the claim for April's rent with leave to reapply in the event that the cheque is returned or if the landlord chooses to pursue occupational rent for the period of time from April 15-30 in which the tenants occupy the rental unit.

I find that the landlord is entitled to a \$25.00 fee for the stopped payment placed on the April cheque. I further find that the landlord is entitled to recover the \$50.00 filing fee paid to bring this application for a total entitlement of \$75.00 which I award to the landlord. I order the landlord to retain \$75.00 from the security deposit in full satisfaction of this award. The landlord will deal with the remaining \$425.00 security deposit and \$500.00 pet deposit at the end of the tenancy in accordance with the provisions of the Act.

### Conclusion

The landlord is granted an order of possession and will retain \$75.00 from the security deposit.

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 15, 2013

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Residential Tenancy Branch

