



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes MT, CNR, OPR, MNR, MNSD, FF

### Introduction

This hearing was convened in response to applications by the tenants and the landlord.

The tenants' application is seeking orders as follows:

1. To allow a tenant more time to make an application to cancel a notice to end tenancy; and
2. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent, issued on May 2, 2013.

The landlord's application is seeking orders as follows:

1. For an order of possession for unpaid rent;
2. For a monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

### Tenants' application

This matter was set for hearing by telephone conference call at 2:00 P.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenants did not attend the hearing by 2:10 P.M, and the landlord appeared and was ready to proceed, I dismiss the tenants' application without leave to reapply.

### Landlord's application

The landlord's agent stated that both tenants were served with the Landlord's Application for Dispute Resolution and Notice of Hearing on May 22, 2013, in person, the tenants did not appear. I find that the tenants have been duly served in accordance with Act.

### Issues 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

Based on the testimony of the landlord's agent, I find that the tenants were served with a notice to end tenancy for non-payment of rent on May 2, 2013, by personal service. 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 tenants acknowledged that they received the notice to end tenancy when they filed their application for dispute resolution. The tenants' application was dismissed.

The landlord's agent testified that the rent is \$825.00 per month payable on the first day of each month. The agent stated that each month they receive a cheque for subsidy in the amount of \$240.27, and the tenants were required to pay the balance of \$584.64. The landlord stated in the tenants' application they claim to have paid rent in cash, however, that claim is false as the resident manager keeps exceptional logs and always issues rent receipts.

The landlord's agent testified that they seek to recover unpaid rent for May 2013, in the amount of \$584.64.

The landlord's agent testified that they have received the subsidy cheque for June 2013, however, the tenants did not pay the balance owing and they seek to recover unpaid rent for June 2013, in the amount of \$584.73.

The landlord's agent testified that they seek to recover the late fees of \$25.00 for May and June 2013, rent as per the tenancy agreement.

### Analysis

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

In this case, the tenants' application to cancel the notice was dismissed. I find that the landlord is entitled to an order of possession pursuant to section 55 of the Act, effective **two days** after service on the tenants. 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 **\$1,269.37** comprised of unpaid rent, late fees and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the deposit and interest of \$357.49 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$911.88**.

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

### Conclusion

The tenants' application to cancel the notice to end tenancy, issued May 2, 2013, is dismissed.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: June 05, 2013

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Residential Tenancy Branch

