



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### Introduction

This hearing dealt with two related applications. The tenant has applied for an order setting aside a 10 Day Notice to End Tenancy and for a monetary order. The landlord has applied for an order of possession, a monetary order and an order permitting retention of the security deposit in partial satisfaction of the claim. As the parties and circumstances are the same for both applications, one decision will be rendered for both.

Although served with the landlords' application for dispute resolution and notice of hearing by registered mail, neither tenant appeared at the hearing. As the tenants did not appear in support of their own application, it is dismissed without leave to re-apply.

### Issue(s) to be Decided

- Are the landlords entitled to an order of possession and, if so, on what terms?
- Are the landlords entitled to a monetary order and, if so, in what amount?
- Are the landlords entitled to retention of the security deposit?

### Background and Evidence

This month-to-month tenancy commenced March 24, 2013. The monthly rent of \$1150.00 is due on or before the first day of the month. The tenants paid a security deposit of \$575.00.

The landlord testified that the tenants were served with a 10 Day Notice to End Tenancy for Non-Payment of Rent when it was posted to the rental unit on June 4, 2012. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

The tenant did serve and file an application disputing the notice. According to the landlords they have not paid the rent for June and July and the arrears total \$2300.00.

### Analysis

Section 55(1) of the *Residential Tenancy Act* provides that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is

dismissed, the dispute resolution officer must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing, the landlord makes an oral request for an order of possession. The tenant's application was dismissed and the landlord did make an oral request for an order of possession. The landlords are entitled to an order of possession effective two days after service on the tenants

I find that the landlords have established a total monetary claim of \$2350.00 comprised of arrears of rent for June and July in the amount of \$2300.00 and the \$50.00 fee paid by the landlord for this application. I order that the landlords retain the deposit of \$575.00 in partial satisfaction of the claim and I grant the landlords an order under section 67 for the balance due of \$1775.00.

#### Conclusion

- a. An order of possession effective two days after service on the tenants has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlords in the amount of \$1775.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) and enforced 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: July 09, 2013

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Residential Tenancy Branch