



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HUME INVESTMENTS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession based on unpaid rent, a monetary order for unpaid rent, an order to retain the security and pet deposits in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified that she served the Tenants with the Notice of Hearing and Application by sending them each registered mail, sent on November 4, 2013. In evidence the Agent for the Landlord submitted copies of the registered mail receipts. The Agent testified that the mail was returned by Canada Post and the envelopes were marked unclaimed. I find the Tenants were duly served under the Act. I note that failure or neglect to receive registered mail is not a ground for review under the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an order of possession and monetary relief?

### Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord and the documents submitted in evidence, I find that both the Tenants were served in person with a 10 day Notice to End Tenancy for non-payment of rent on October 2, 2013, for \$830.00 for October 2013 rent (the "Notice").

The Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenants had five days to dispute the Notice by filing an Application for Dispute Resolution.

The Agent for the Landlord testified that she received a text message from the male Tenant around the middle of November of 2013 enquiring about his security and pet deposits and the personal property left at the rental unit. The Agent for the Landlord testified she informed the Tenant at that time about this hearing.

The Agent testified that the rent for October, November and December of 2013 has not been paid. The Landlord requests a monetary order for the three months of rent.

### Analysis

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

The Tenants have not paid the outstanding rent and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, October 12, 2013.

I find that the Landlord is entitled to an order of possession 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 **\$2,540.00**, comprised of \$830.00 in rent for October, November and December 2013 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the security and pet deposits of \$800.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,740.00**.

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

### Conclusion

The Tenants failed to pay rent and did not file to dispute the Notice to End Tenancy.

The Tenants are 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, may keep the security and pet deposits in partial satisfaction of the claim, and is granted a monetary order for the balance due.

The Landlord is cautioned to enquire with an Information Officer or to consult the legislation in regard to any personal property left behind by the Tenants. Toll free numbers for calling the Branch are set out on the Application for Dispute Resolution.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: December 12, 2013

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Residential Tenancy Branch

