



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Boundary Management Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute codes      OP MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord's agent called in and participated in the hearing and the named tenant also called in and took part in the hearing.

### Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

### Background and Evidence

This tenancy began on January 15, 2012. The rent is \$875.00 due in advance on the first day of each month. The tenant paid a security deposit of \$437.00 at the start of the tenancy. The tenants did not pay rent for November when it was due. On November 5, 2013 the landlord served the tenants with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The tenants have not paid rent September to and including January, except for a payment of \$437.50 made on October 15, 2013 and they did not file an application to dispute the Notice to End Tenancy.

The landlord made an earlier application for dispute resolution that was heard on August 29, 2013. The landlord did not attend the hearing and the application was dismissed, although the arbitrator commented that the landlord should consider a reduction in its claim for arrears from April to July.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenants must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenants do neither of these two things, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

*Order of Possession* - Based on the above background, evidence and analysis 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.

*Monetary Order and Security Deposit* – Because the landlord's previous claim for a monetary award for unpaid rent was dismissed at the hearing on August 29, 2013, I find that I am unable to entertain any claim for unpaid rent prior to the August 29<sup>th</sup> decision. The tenant did not dispute the landlord's evidence that save for a \$437.50 payment on October 15<sup>th</sup> the tenants have not paid rent for the past five months. I find that the landlord has established a total monetary claim of \$3,937.50 for the outstanding rent for September, October, November, December and January, less \$437.50 paid on October 15<sup>th</sup>. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$3,987.50. I order that the landlord retain the deposit and interest of \$437.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3,550.50. This order may be filed in the Small Claims Court 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: January 08, 2014

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Residential Tenancy Branch

