



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

For the tenants – CNR, FF

For the landlords – OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to both parties' applications for Dispute Resolution. The tenants applied to cancel the Notice to End Tenancy for unpaid rent and to recover the filing fee from the landlords for the cost of this application. The landlords applied for an Order of Possession for unpaid rent or utilities; for a Monetary Order for unpaid rent or utilities; for an Order permitting the landlord to keep all or part of the tenants security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (*Act*), regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

The hearing went ahead as scheduled and the phone line remained open for 10 minutes however the tenants failed to dial into the conference call during this time. Therefore, no hearing took place regarding the tenants' application and the tenants' application is dismissed without leave to reapply.

Service of the hearing documents, by the landlords to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail on November 22, 2013. Canada Post tracking numbers were provided by the landlords in documentary evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

One of the landlords and the landlords' agent appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

At the outset of the hearing the landlord attending advised that the tenants are no longer residing in the rental unit, and therefore, the landlords withdraw their application for an Order of Possession and for a Monetary Order for money owed or compensation for damage or loss.

#### Issue(s) to be Decided

- Are the landlords entitled to a Monetary Order to recover unpaid rent or utilities?
- Are the landlords permitted to keep all or part of the security deposit?

#### Background and Evidence

The landlords' agent testifies that this tenancy started on April 01, 2006 for a month to month tenancy. Rent for this unit is now \$1,480.00. The tenants paid a security deposit of \$650.00 on March 15, 2006.

The landlords' agent testifies that the tenants have been continually late with rent throughout the tenancy. The landlord has provided a copy of the rent ledger showing rent payments paid by the tenants. This rent ledger shows that there was outstanding rent of \$3,196.00 on November 01, 2013. The landlord s' agent testifies that the landlords have decided not to pursue the tenants for any past rent owed but do seek to recover unpaid rent for November and December, 2013 of \$2,960.00.

The landlords' agent testifies that the tenants were served a 10 Day Notice to End Tenancy on November 13, 2013 which was posted to the tenants' door. The tenants vacated the rental unit on December 07, 2013 but did not return the keys or provide a forwarding address until December 20, 2013.

The landlords seek a Monetary Order to recover the reduced amount of rent and an Order to keep the security deposit to apply to the outstanding rent.

### Analysis

The tenants did not appear at the hearing to dispute the landlords' claims, despite having been given a Notice of the hearing and despite having filed their own application; therefore, in the absence of any evidence from the tenants, I have considered the landlords' documentary evidence and affirmed testimony before me of the landlords' agent. Section 26 of the *Act* states:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I am satisfied with the evidence before me that the tenants failed to pay rent for November and December 2013. The landlords are therefore entitled to a monetary award to recover the outstanding rent claimed of **\$2,960.00**.

I Order the landlords to keep the tenants security deposit of **\$650.00** plus accrued interest of **\$22.34** pursuant to s. 38(4)(b) of the *Act*. This sum will be offset against the unpaid rent.

As the landlords have been largely successful with their claim I find the landlords are entitled to recover the **\$50.00** filing fee from the tenants pursuant to section 72(1) of the

*Act.* The landlord will receive a Monetary Order pursuant to s. 67 of the *Act* for the following amount:

Unpaid rent	\$2,960.00
Less security deposit and accrued interest	(-\$672.34)
Filing fee	\$50.00
Total amount due to the landlord	\$2,337.66

### Conclusion

I HEREBY FIND in favor of the landlords' reduced monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$2,337.66**. The order must be served on the tenants and is enforceable through the Provincial Court 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 14, 2014

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Residential Tenancy Branch

