



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlords for an Order of Possession and a Monetary Order for unpaid rent. The Landlords also applied for money owed or compensation for loss under the *Residential Tenancy Act* (the “Act”), regulation or tenancy agreement, and to recover the filing fee for the cost of the Application.

Both Landlords appeared for the hearing and provided affirmed testimony as well as written evidence prior to the hearing. There was no appearance by the Tenant during the 35 minute duration of the hearing or any submission of written evidence prior to the hearing. As a result, I turned my mind to the service of documents for this hearing by the Landlords.

The Landlord testified that they served a copy of their Application and the Notice of Hearing documents (the ‘hearing package’) by registered mail which was sent to the Tenant’s rental suite on June 20, 2014.

The Landlords provided the Canada Post tracking receipts as evidence for this method of service. The Landlords testified that the hearing package had been returned back to them unclaimed. Section 90(a) of the Act explains that documents served by mail are deemed to have been received five days after they are mailed. A failure or neglect to pick up mail is not sufficient to avoid service or file a review application.

Therefore, I find that the Tenant was served with the hearing package pursuant to Section 89(1) (c) of the Act and the deeming provisions of the Act allow me to determine that the Tenant was deemed served on June 25, 2014.

At the start of the hearing, the Landlords both confirmed that the Tenant had vacated the rental suite sometime in the middle of August, 2014. As a result, the Landlords withdrew their request for an Order of Possession.

The hearing continued and I have carefully considered the undisputed testimony of the Landlords as well as the written evidence provided.

Issue(s) to be Decided

- Are the Landlords entitled to unpaid rent for November, 2013 to August, 2014?

Background and Evidence

The Landlords testified that this tenancy started on a month to month basis on October 15, 2013. No written tenancy agreement was signed and no security or pet damage deposit was taken. Rent under the oral agreement was established in the amount of \$2,000.00 per month payable by the Tenant on the 15<sup>th</sup> day of each month.

The Landlords testified that the Tenant paid the first month's rent and then after that, in November, 2013, the Tenant failed to pay any rent. The Landlords were attempting to be lenient and accommodating to the Tenant but by the time it got to June, 2014, the Tenant was in \$16,000.00 rent arrears, minus a \$500.00 partial payment made by the Tenant in the same month.

The Landlords personally the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") on June 8, 2014. The Notice, which was provided as evidence, shows an expected date of vacancy of June 18, 2014 for a total amount of \$15,500.00 due on June 13, 2014; however the Notice shows that the \$15,500.00 amount was scratched out and an amount of \$6,800.00 was added in.

The Landlord agreed that the amounts and dates on the Notice were confusing. The Landlord explained that they agreed with the Tenant, in writing, that the Tenant would pay \$6,800.00 of the total rent arrears by June 15, 2014 as it was not possible for the Tenant to make the full payment in the time limits imposed by the Notice. After this time period the written agreement, provided in written evidence, explains that the Tenant will pay the remaining amount by August 18, 2014.

However, the Tenant made no payments and the Landlords confirmed that the total amount of rent arrears, including in their monetary claim, is still \$19,500.00 which they now seek to recover from the Tenant.

### Analysis

I accept the Landlords' affirmed testimony and written evidence provided for the hearing as detailed above, that the Tenant only paid \$500.00 rent for the last ten months of this tenancy. Therefore the Landlord is eligible for unpaid rent in the amount of \$19,500.00.

As the Landlords have been successful in this matter, they are also entitled to recover from the Tenant the \$50.00 filing fee for the cost of this Application, pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Landlord is \$19,550.00.

The Tenant failed to appear for this hearing to dispute the evidence and therefore the Landlords are issued with a Monetary Order for this amount.

### Conclusion

For the reasons set out above, I grant the Landlords a Monetary Order pursuant to Section 67 of the Act in the amount of **\$19,550.00**. This Order must be served on the Tenant and may then 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: August 18, 2014

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Residential Tenancy Branch

