



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MDSD & FF

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenants on by posting on October 6, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenants on November 17, 2014. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on November 1, 2013. The present rent is \$1200 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$600 at the start of the tenancy.

At the time the Application for Dispute Resolution was filed the tenants owed rent. Since then the tenants have paid the arrears plus the rent for December. The tenant(s) continue to live in the rental unit. .

### Analysis

#### Analysis - Order of Possession:

I dismissed the landlord's application for an Order for Possession. Where a tenant is served with a 10 day Notice the tenant has 5 days to pay the arrears in which case the Notice is void. If the tenant pays the arrears after that date the landlord has an election. The landlord can accept the payment "for use and occupation only" in which case the tenancy will end at the end of the rental payment period. If the landlord accepts the payment unconditionally the landlord will be seen as reinstating the tenancy. In this case the landlord did not make it clear it was accepting the payment "for use and occupation only" and thus has reinstated the tenancy.

#### Analysis - Monetary Order and Cost of Filing fee

The arrears have been paid plus the rent for December. The landlord acted reasonably in bringing the within application. I ordered that the tenants pay to the landlord the sum of \$50 for the cost of the filing fee.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: December 17, 2014

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Residential Tenancy Branch

