



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application for dispute resolution by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail deemed delivered on September 22, 2015, the tenants did not appear.

### Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?
- Is the landlord entitled to retain the security deposit?

### Background and Evidence

This month-to-month tenancy commenced September 1, 2014. Although the tenancy agreement states that the monthly rent is \$1600.00 the landlord's witness testified that there was an error on the tenancy agreement, the actual rent is \$1650.00, and the tenants have paid that amount since the start of the tenancy. The tenants paid a security deposit of \$800.00.

The landlord testified that the tenants were personally served with a 10 Day Notice to End Tenancy for Non-Payment of Rent on September 10, 2015. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The landlord testified that the tenants did neither.

The landlord testified that the tenants have not paid the rent for September or October and the arrears total \$3300.00.

### 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 *Residential*

*Tenancy Act* to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order of possession effective two days after service on the tenants.

I find that the landlord has established a total monetary claim of \$3350.00 comprised of arrears of rent in the amount of \$3300.00 and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit of \$800.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$2550.00.

Conclusion

- a. An order of possession effective two days after service on the tenants has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$2550.00 has been granted. If necessary, it may 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: October 08, 2015

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Residential Tenancy Branch

