



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

On May 16, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession; for a monetary order for unpaid rent or utilities; to keep the security deposit; and to recover the cost of the filing fee. The matter was set for a conference call hearing at 1:30 p.m. on this date.

The Landlord attended the teleconference hearing; however, the Tenants did not. The Landlord provided affirmed testimony that he served the Tenants with the Notice of Hearing in person on May 18, 2016. I find that the Tenants have been duly served in accordance with the Act.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

### Preliminary Issue

The Landlord requested to amend his application to include keeping all or part of the security deposit. I granted the Landlord's request.

### Issues to be Decided

Is the Landlord entitled to an order of possession due to unpaid rent?  
Is the Landlord entitled to a monetary order to recover unpaid rent?  
Is the Landlord entitled to keep the security deposit towards unpaid rent?  
Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began in September, 2014, as a month to month tenancy. Rent in the amount of \$3,000.00 is payable on the first of each month. The Tenants paid the Landlord a security deposit of \$1,500.00.

The Landlord testified that the Tenants did not pay all of the rent owing for March 2016, and did not pay any rent for April 2016, or May 2016.

The Landlord testified that the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 2, 2016, ("the Notice") on May 2, 2016. The Landlord testified that he served the Notice to the Tenants in person. The Notice states that the Tenants have failed to pay rent in the amount of \$8,000.00 which was due on May 1, 2016. The Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenants had five days to dispute the Notice. The Landlord provided a copy of the Notice.

There is no evidence before me that that the Tenants made an application to dispute the Notice.

The Landlord testified that the Tenants have not paid any rent since the Notice was served to them. The Landlord testified that the Tenants owe rent money for the following months:

- March 2016, in the amount of \$2,000.00
- April 2016, in the amount of \$3,000.00
- May 2016, in the amount of \$3,000.00
- June 2016, in the amount of \$3000.00

The Landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$11,000.00.

The Landlord requests to keep the security deposit of \$1500.00 in partial satisfaction of his claim.

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenants have not paid the outstanding rent within five days of receiving the Notice, and did not apply to dispute the Notice, and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective two days after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenant.

I find that the Tenants have not paid rent to the Landlord as required by the tenancy agreement. I find that the Tenants owe the Landlord \$11,000.00 for unpaid rent for above mentioned months.

I order that the Landlord can keep the security deposit in the amount of \$1,500.00 in partial satisfaction of the claim for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$11,100.00 comprised of \$11,000.00 in unpaid rent for the above mentioned dates and the \$100.00 fee paid by the Landlord for this hearing. After offsetting the security deposit of \$1,500.00 towards the claim of \$11,100.00, I find that the Landlord is entitled to a monetary order in the amount of \$9,600.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

### Conclusion

The Tenants failed to pay the rent and did not file to dispute the Notice. The Tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

I order that the Landlord can keep the security deposit in the amount of \$1,500.00 in partial satisfaction of the claim.

The Landlord is granted an order of possession effective 2 days after service on the Tenants and I grant a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$9,600.00

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: June 15, 2016

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Residential Tenancy Branch