



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            OPR, OPC, MNR, MNDC, FF, MT

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by the parties under the Residential Tenancy Act (the “Act”).

The Landlord filed an application requesting an order of possession; to recover unpaid rent and /or utilities; for money owed or compensation for damage or loss; and to recover the cost of the filing fee.

The Tenants filed an application requesting more time to make an application to cancel a Notice to end tenancy and for a monetary order for money owed or compensation for damage or loss under the *Act*, Regulation or tenancy agreement.

The matter was scheduled as a teleconference hearing. Both parties appeared at the initial hearing. The hearing process was explained and the participants were asked if they had any questions. All participants in the hearing provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The hearing on January 10, 2017, was adjourned to provide the parties more time to provided testimony and respond. The parties were sent a new Notice of Hearing providing the date and time of the new hearing. The Tenants failed to attend the reconvened hearing.

There is no record within the case management system that the Tenants have contacted the Residential Tenancy Branch since the initial hearing was adjourned.

The hearing proceeded and the Landlord’s application was heard in the Tenants absence.

### Issues to be Decided

- Is the Landlord entitled to an order of possession?
- Is the Landlord entitled to the monetary relief sought for unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began on November 1, 2016, as a month to month tenancy. Rent in the amount of \$700.00 was due on the first day of the month. The Tenant paid the Landlord a security deposit of \$350.00.

The Landlord J.O. testified that she issued the Tenants a 10 Day Notice To End Tenancy For Unpaid Rent or Utilities on November 22, 2016. The 10 Day Notice indicates that the Tenants failed to pay the rent in the amount of \$760.00 that was due on November 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 Landlords testified that they did not receive any money from the Tenants since the 10 Day Notice was issued.

The Tenants applied on December 1, 2016, requesting more time to make an application to dispute a notice to end tenancy.

The Landlord testified that the Tenant moved out of the rental unit at the beginning of December 2016.

The Landlord is seeking to recover unpaid rent for the months of November 2016, December 2016, and January 2017. The Landlord testified that they were unable to rent out the unit for the month of January 2017.

The Landlord is also seeking to recover the cost of the filing fee for the application.

### Analysis

Residential Tenancy Policy Guideline # 3 Claims for Rent and Damages for Loss of Rent provides that damages awarded are an amount sufficient to put the Landlord in the same position as if the Tenant had not breached the agreement.

Based on all of the above, the evidence and testimony of the Landlord, and on a balance of probabilities, I find as follows:

The Tenants failed to attend the reconvened hearing.

I find that the Tenants moved out of the rental unit in early December 2016, and as such the Landlord does not require an order of possession to be granted.

I find that the Tenants failed to pay the rent owing under the tenancy agreement for November 2016, and December 2016. The Tenants moved out of the rental unit in December 2016, and the Landlord was not given the same amount of notice they would have if the tenancy ended in accordance with proper notice under the Act.

The Landlord was unable to rent the unit for the month of January 2017, and therefore, I find that the Tenants are responsible to pay the rent for January 2017. I find that the Tenants owe the Landlord \$2,100.00 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 \$2,200.00 comprised of \$2,100.00 in unpaid rent for the above mentioned dates and the \$100.00 fee paid by the Landlord for this hearing.

I grant the Landlord a monetary order in the amount of \$2,200.00. 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 owing under the tenancy agreement and did not appear at the reconvened hearing.

The Landlord is granted a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$2,200.00.

Since the Tenants did not appear at the hearing, the Tenants' application is dismissed without leave to reapply.

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 10, 2017

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Residential Tenancy Branch

