



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent or utilities, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenants.

Only the landlord appeared.

The landlord's original application was made through the Direct Request process. The Adjudicator determined that this matter should be adjourned to a participatory hearing. The interim decision provided the landlord with orders for service of the interim decision and the reconvene hearing notice.

The landlord testified that they sent the required documents by registered mail sent on July 12, 2019. The Canada Post tracking history shows the tenants were left a notice card to pick up the package on July 15, 2019 and a final notice card was left on July 25, 2019. The packages were returned to the landlord.

I find the tenants were duly served in accordance with the Act, five days after it was mailed, July 17, 2019. Refusal or neglect to pick up the package does not override the deemed service provision of the Act.

### Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

Based on the testimony of the landlord, I find that the tenants were served with a notice to end tenancy for non-payment of rent on July 1, 2019, by posting to the door, which was witnessed and a photograph taken. 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 testified that the tenants owed the amount of \$375.00 for unpaid rent for June 2019. The landlord stated that the tenants did not pay July 2019, rent of \$750.00 and they received a partial payment of \$700.00 on July 5, 2019, towards the outstanding rent leaving a balanced owed of \$425.00.

The landlord testified that the tenants have not paid any rent for August 2019 and September 2019, and additional rent is now owing is the amount of \$1,500.00.

### 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 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.

I find that the landlord has established a total monetary claim of **\$1,675.00** comprised of unpaid rent and the \$100.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of \$350.00 in partial satisfaction of the claim and I grant the landlord an order pursuant to section 67 of the Act, for the balance due of **\$1,675.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

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

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: September 12, 2019

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Residential Tenancy Branch