



# 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.

Both parties appeared gave 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 at the hearing.

### 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

The tenancy began on November 1, 2018. Rent in the amount of \$950.00, plus \$30.00 parking for a total due of \$980.00 was payable on the first of each month. A security deposit of \$475.00 was paid by the tenants.

The parties agreed that the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent, issued on March 3, 2020.

The tenant testified that the landlord gave them some extra time to pay the amount owed. The tenant stated they did not pay the amount owed and did not dispute the Notice.

The landlord testified that the tenant's owed \$900.00 in rent for March 2020. The landlord stated the tenants have not paid any subsequent rent from April 2020 to and including September 2020.

The tenants testified that they did not pay any subsequent rent to the landlord. The tenants testified that they received their disability cheques each month; however, they did not pay their rent out of that funding.

### 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 am troubled by the testimony of the tenants that they did not pay any rent from March 2020 to September 2020, during the state of the emergency; however, nothing financially changed for the tenants as they were receiving disability payments and did not lose their employment. I find the tenants' action is **egregious**, as they were taking advantage of the state of emergency which would not allow landlords to evict tenants for failure to pay the rent. I find the tenants have **willfully abused the intent of the emergency legislations**.

I find that the landlord has established a total monetary claim of **\$6,800.00** comprised of unpaid rent from March 2020 to September 2020, and the \$100.00 fee paid by the landlord for this application.

I order that the landlords retain the security deposit of **\$475.00** 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 **\$6,405.00**. This 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 tenant.

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 10, 2020

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Residential Tenancy Branch