



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FFL

### Introduction

On February 3, 2021, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an order of possession; for a monetary order for unpaid rent or utilities; and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord and her agent attended the teleconference hearing; however, the Tenants did not. The Landlord provided affirmed testimony that the Tenants were served the Notice of Dispute Resolution Proceeding using registered mail sent February 10, 2021. The Landlord provided a copy of the registered mail receipt as proof of service.

I find that the Tenants have been duly served with the Notice of Dispute Resolution Proceeding in accordance with sections 89 and 90 of the *Act*. The Tenants are deemed to have been served on February 15, 2021.

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

### Issues to be Decided

- Is the tenancy ending due to unpaid rent?
- 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 recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began in May 2018 and is on a month to month basis. Rent in the amount of \$1,350.00 is to be paid to the Landlord by the first day of each month. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenants did not pay all the rent owing under the tenancy agreement for the months of September 2020 and October 2020.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 9, 2020 ("the 10 Day Notice"). The Landlord testified that the Tenants were served with the Notice by registered mail sent to the Tenants on October 9, 2020. The Landlord provided a copy of the 10 Day Notice, and a copy of the registered mail receipt.

The 10 Day Notice indicates that the Tenants have failed to pay rent in the amount of \$2,300.00 which was due on September 1, 2020. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

There is no evidence before me that the Tenants made an application to dispute the 10 Day Notice.

The Landlord testified that there was an earlier hearing on this matter in December 2020 that could not proceed due to technical difficulties. The hearing was rescheduled.

The Landlord testified that the Tenants did not pay the rent owing under the tenancy agreement within five days of receiving the 10 Day Notice.

The Landlord wants an order of possession for the rental unit due to unpaid rent and a monetary order for unpaid rent.

The Landlord testified that the Tenants owes the following amounts of rent for the following months:

September 2020	\$950.00
October 2020	\$1350.00
November 2020	\$1350.00
December 2020	\$1350.00
January 2021	\$1350.00
February 2021	\$1350.00
March 2021	\$1350.00
April 2021	\$1350.00
May 2021	\$1350.00

The Landlord testified that she received a payment of \$700.00 from the Tenants on April 23, 2021.

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 Landlords paid to make application for dispute resolution.

The Landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$11,150.00

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenants did not pay all the rent owing under the tenancy agreement within five days of receiving the 10 Day 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 10 Day 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 Tenants.

I find that the Tenants owe the Landlord \$11,050.00 in unpaid rent for the above-mentioned months.

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 \$11,150.00 comprised of \$11,050.00 in unpaid rent and the \$100.00 fee paid by the Landlord for this hearing.

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 due under the tenancy agreement and did not file to dispute the 10 Day Notice. The Tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession effective two (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 \$11,150.00.

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: May 03, 2021

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Residential Tenancy Branch