



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order for unpaid rent, for compensation under the Act or tenancy agreement, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

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 to me.

The Agent for the Landlord requested that the Application be amended to include the Landlord's name on the monetary order, and I allow this amendment. The last name of the Tenants has been spelled in two different ways, and I amend the Application to reflect that.

### Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

### Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord, I find that the Tenants were served with a Notice to End Tenancy for non-payment of rent on April 12, 2010.

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.

The Tenants did not file an Application to dispute the Notice. The Tenants did not dispute that rent is owed to the Landlord, however, they disagree with the amounts the

Landlord claims is owed for September of 2009 and for January, February, March and April of 2010.

The Tenants agree that no rent has been paid for May and June of 2010.

### Analysis

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

The Tenants have not paid all the outstanding rent owed to the Landlord and did not apply to dispute the Notice. They 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 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 **\$1,584.00** comprised of \$767.00 in rent for each of May and June of 2010, and the \$50.00 fee paid by the Landlord for this application. The Landlord's claim for rent owed for September of 2009 and for January, February, March and April of 2010, is dismissed with leave to reapply.

I order that the Landlord retain the deposit and interest of **\$371.83** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,212.17**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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 21, 2010.

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Dispute Resolution Officer