



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Dunkeld Properties  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This is an application for a Monetary Order for \$5818.17 and a request to retain the full security deposit towards the claim.

The applicant(s) testified that the respondent(s) were served with notice of the hearing by personal service into their hands on March 10, 2014, however the respondent(s) did not join the conference call that was set up for the hearing.

It is my finding that the respondent(s) were properly served with notice of the hearing and therefore the hearing was held in their absence.

All testimony was taken under affirmation.

### Issue(s) to be Decided

Has the applicant established a monetary claim against the tenants, and if so in what amount.

### Background and Evidence

The applicants testified that:

- This tenancy began on July 1, 2013 with the monthly rent of \$1000.00, and a security deposit of \$500.00 was collected just prior to the beginning of the tenancy.
- The tenants were also required to pay 40% of utilities in the rental agreement.
- The tenants have failed to pay any rent for the months of February 2014, March 2014, and April 2014 for a total of \$3000.00 in rent outstanding.

- The tenants have also failed to pay their portion of utilities, and at this time there is a total of \$446.55 outstanding. A portion of that has been estimated as they do not have the bills for the month of March 2014 as of yet.
- They also have a clause in their tenancy agreement requiring that the tenants pay a \$25.00 late fee, and at this time there is a total of \$275. 00 in outstanding late fees.
- There is also a lease breaking fee clause in the tenancy agreement requiring that the tenant pay \$1000.00 if they break the lease.
- They also believe that the tenant will not vacate when required and therefore are requesting an estimated \$1000.00 for Bailiff costs.
- They also request recovery of their \$100.00 filing fee.

Therefore the total amount they are requesting is as follows:

February 2013 rent outstanding	\$1000.00
March 2013 rent outstanding	\$1000.00
April 2013 rent outstanding	\$1000.00
Utilities outstanding	\$446.55
Late fees	\$275.00
Lease breaking fee	\$1000.00
Bailiff cost	\$1000.00
Filing fee	\$100.00
Total	\$5821.55

### Analysis

Is my finding that the applicants have shown that the monthly rent for this rental unit is \$1000.00, as the applicants have provided copies of the dishonored cheques from the tenant showing that the monthly rent was \$1000.00. I therefore allow the landlords claim for lost rental revenue for the months of February through April 2013 totaling \$3000.00.

I also allow the request for an Order of Possession, because it is my finding that the tenants have been served with a valid Notice to End Tenancy and have failed to comply with that notice.

I will not allow the landlords claim for utilities, late fees, or lease breaking fees at this time however because the landlord has failed to provide a copy of the tenancy agreement to establish what portion of the utilities the tenant is required to pay or to establish what fees are included in the tenancy agreement. Since the tenant has not appeared at today's hearing I will dismiss these portions of the claim with leave to reapply.

I also deny the claim for the Bailiff costs, because at this time the landlords have not incurred any Bailiff costs and in fact may not incur any, if the tenant complies with the Order of Possession. This portion of the claim is therefore premature and I will also dismiss the claim for Bailiff costs, with leave to reapply if the applicants actually incur any Bailiff costs.

I will allow recovery of one half the \$100.00 filing fee, because I have allowed a substantial portion of the claim, however the amount I have allowed is less than the \$5000.00 amount over which the fee rises from \$50.00 to \$100.00.

### Conclusion

I have issued an Order of Possession that is enforceable two days after service on the tenants.

I have allowed a total amount of \$3050.00 of the landlords claim and I therefore Order that the landlords may retain the full security deposit of \$500.00, and I've issued a Monetary Order in the amount of \$2550.00.

As stated above I dismiss, with leave to reapply, the claims for outstanding utilities, late fees, lease breaking fee, and potential Bailiff costs.

I further Order that the landlord bear the remaining \$50.00 cost of the filing fee.

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: April 08, 2014

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Residential Tenancy Branch

