



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

OPR, MNR

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act, (the “Act”) for an order of possession, for a monetary order for unpaid rent 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.

### Preliminary matters

At the outset of the hearing the landlords requested to amended their application to include unpaid of rent for March 2015. As rent is the most basic term of a tenancy agreement, I find, pursuant to section 62(3) that the landlords’ application is amended to include a claim for unpaid rent for March 2015.

The parties agreed that the landlords’ application should be amended by only have RF and FD listed as respondents. As the other parties listed in the application rent rooms from the tenants and are occupants under this agreement.

### Issues to be Decided

Are the landlords entitled to an order of possession?

Are the landlords entitled to a monetary order for unpaid rent?

### Background and Evidence

The tenant acknowledged that they received a Notice to End Tenancy for non-payment of rent on February 13, 2015, (the “Notice”). The tenant stated that they did not dispute the Notice or pay the amount listed in the Notice, as they believe the landlords’ rent increase was contrary to the Act.

The landlord testified that the tenancy began in 2006 and the rent was increased in accordance with the Act. The landlord stated that on February 4, 2015, the parties entered into a new tenancy agreement as the tenants were given permission to sublet rooms, which they did. Filed in evidence is a copy of the tenancy Agreement signed by the landlords and tenants.

The landlord testified that the tenants only paid the amount of \$390.00 for February 2015, rent. The landlord stated the tenants have not paid any rent for March 2015. The landlords seek to recover unpaid rent in the amount of \$1,410.00.

The tenant testified that they paid the amount of \$540.00 for February 2015 and did not pay any rent for March 2015. The tenant acknowledged that they are currently renting rooms.

The landlord argued that when the tenants in November 2014, started to pay rent in cash they have always issued a receipt for these cash payments. The landlord stated the receipt for the amount of \$390.00 was issued for February 2015, and a copy was provided to the tenants at that time.

The tenant acknowledged receiving rent receipts for cash payment made since November 2014, the tenant stated they cannot find the copy that was provided for February 2015.

### Analysis

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

#### **Amount of rent increase**

43 (1) A landlord may impose a rent increase only up to the amount

- (a) calculated in accordance with the regulations,
- (b) ordered by the director on an application under subsection (3),
- or
- (c) **agreed to by the tenant in writing.**

In this case, the parties entered into a new tenancy agreement in which the rent was increased to allow the tenants to sublet rooms. Although the tenants now disagree with the rent increase, I find the tenants in writing agreed to the rent increase when they signed the new tenancy agreement with the landlords. I find the tenants have failed to prove that the landlords have violated the Act, by imposing an illegal rent increase.

The new tenancy agreement signed by the tenants indicates rent was \$950.00 per month, payable on the first of each month, commencing February 1, 2015.

The evidence of the tenant was that they paid the amount of \$540.00. The evidence of the landlord was the tenants paid the amount of \$490.00 and a receipt was issued to the tenants. Although both parties have provided a different version as to the amount of rent that was paid for February 2015, I accept the landlords version as the tenant was unable to find their copy of the receipt to verify the amount that was actually paid.

As there was an outstanding amount of rent owed when the Notice was issued and the rent owed was not paid within 5 days as required, I find the Notice issued on February 13, 2015, was a valid notice under the Act and the tenancy legally ended on the date specified in the Notice, which was February 24, 2015.

I find that the landlords are entitled to an Order of Possession effective **two days after service** on the tenants and this Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the tenants have failed to pay rent under the Act and tenancy agreement and this caused losses to the landlords. I find the landlords have established a total monetary claim of **\$1,460.00** comprised of the balance of rent owed for February 2015, occupancy rent for March 2015, and the \$50.00 fee paid by the landlord for this application. I grant the landlords an order under section 67 of the Act. 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 landlords were granted an order of possession and a monetary order for rent 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: April 08, 2015

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Residential Tenancy Branch

