



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes FF, MNR, MNSD, OPR, ERP, RP, LRE, RR

### Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlords application is a request for an Order of Possession based on a Notice to End Tenancy for non-payment of rent, a request for the outstanding rent of \$1300.00, a request that the respondent bear the \$50.00 filing fee that was paid for this hearing, and a request of the landlord be allowed to retain the full security deposit towards this claim

The tenant's application is a claim that the landlord has turned off the electricity and heat to the rental unit and therefore the tenants are requesting a rent reduction of \$325.00 for the month of October and an order that the electricity and heat be turned back on.

## Landlords application

### Decision and reasons

The tenant(s) have failed to comply with a Notice to End Tenancy and rent in the amount of \$450.00 is still outstanding for the month of September 2009, and the tenants also owe the full \$650.00 for October 2009 for a total of \$1100.00.

The tenants claim that they paid the full September 2009 rent however they have no evidence to support that claim only stating that they put \$400.00 in an envelope and put that envelope in the landlord's exterior mailbox. The landlord testified that they never found an envelope with \$400.00 in their mailbox.

It is my decision that the tenants have not met the burden of proving that they paid the full September 2009 rent and therefore, pursuant to Section 55, I have issued an order of possession for 12 noon October 31, 2009.

The landlord(s) is given a formal Order of Possession and the tenant(s) **must** be served with this Order as soon as possible.

I also Order, pursuant to Section 38, that the landlord(s) may retain the full security deposit (\$325.00) towards the outstanding rent.

I further Order pursuant to Section 67 that the respondent(s) pay to the applicant(s) the sum of:

Remaining Outstanding rent	\$775.00
Total	\$825.00

## Tenants application

### Background and evidence

The tenants are requesting a rent reduction for the month of October 2009 claiming that the landlords turned off the electricity and the heat to the rental unit, however as shown above the tenants should have vacated this rental unit in September 2009 when they failed to pay the full September 2009 rent. On top of that the tenants have paid no rent for the month of October 2009.

The landlords testified that they have not turned off the electricity or the heat and in fact the heat is regulated from the tenants suite and since the landlords appear to have heat in their suite the tenants must have heat in theirs. The landlords further testified that the only time that the electricity was off was for a three-hour period when they had to do some work on the electrical system however it was turned right back on again and has been on ever since.

### Decision and reasons

It is my decision that I will not issue any order against the landlords. The tenants have not paid any October rent and therefore to request a reduction in rent that they have not even paid is not reasonable. Further since the tenants should have vacated the rental unit in September 2009 pursuant to the 10 day notice that was served on them on September 2, 2009, they should not have been the rental unit in October anyway.

I'm also not convinced that the landlord has restricted the heat and electricity to this rental unit however if they did, it has since been restored and no order for the return of services is required especially since this tenancy is ending October 31, 2009.

### Conclusion

The tenant's application is dismissed in full without leave to reapply.

I further order that the applicant/tenants, pay the filing fee of \$50.00, that was previously waived, to the director of the Residential Tenancy Office.

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: October 27, 2009.

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Dispute Resolution Officer