



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

*OPR, CNR, MNR, MNDC, RR, ERP, RP, FF*

### **Introduction.**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notice to end tenancy, for emergency repairs and for a reduction in rent.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The tenant filed photographs of the walls and blinds in the rental unit, but failed to serve this evidence on the landlord. Therefore this evidence was not used in the making of this decision.

### **Issues to be decided**

Is the landlord entitled to an order of possession and a monetary order for unpaid rent?

Is the tenant entitled to a reduction in rent due to problems with heating and the refrigerator?

### **Background and Evidence**

This month to month tenancy started on April 06, 2009. Rent is \$500.00 due on the sixth to the tenth day of each month. There is no written tenancy agreement.

The rental unit is located in the basement of the home and the landlord occupies a second suite also located in the basement.

### **Landlord's Application**

The landlord stated that the tenant failed to pay rent for October and was served with a notice to end tenancy on October 19, 2009. The landlord agreed that the tenant paid rent within five days of receiving the notice and is now up to date on rent, but has paid rent late every month. The landlord was unable to provide the dates that the tenant paid rent and acknowledged having signed receipts that were written by the tenant.

During the hearing the landlord decided to withdraw his application and allow the tenancy to continue. The landlord complained that the tenants smoke inside the unit and have removed the smoke detector. In addition, the tenants keep the windows open during winter to cool the basement after setting the thermostat to 30 degrees centigrade, thereby heating the basement to the point of discomfort. The landlord stated that his young child suffered a rash as a result of the high temperature and he was forced to turn off the heat when the tenants refused to lower the temperature on the thermostat.

### **Tenant's Application**

The tenants acknowledged that they paid rent late in October. Since the landlord agreed to allow the tenancy to continue, it was no longer necessary to discuss the tenants' reasons for their application to cancel the notice to end tenancy.

The tenant stated that the stove broke down and the landlord agreed to allow the tenant to retain \$100.00 from October's rent to fix the stove. The tenants stated that the refrigerator broke down about a month ago and the landlord has not yet fixed it. The tenants applied for \$60.00 towards the cost of the food that they lost.

The tenants also complained that the landlord turns the heating off if it is set at more than 25 degrees centigrade. The tenants stated that the thermostat does not work at 25

degrees and therefore they set it to 30 degrees and that they make sure the heating is off when they open the windows. The tenants have applied for an order for a rent reduction to compensate them for the dirty walls and blinds in the rental unit. During the discussion regarding the tenants' reasons for applying for a rent reduction, both tenants signed out of the hearing conference call.

### **Analysis**

The landlord withdrew his application for an order of possession, therefore the tenancy will continue and the landlord must bear the cost of filing his application. I order the landlord to fix or replace the refrigerator and replace the smoke detector.

The tenant did not provide adequate testimony to justify a rent reduction and therefore the tenant's application for a rent reduction is dismissed.

### **Conclusion**

The tenancy will continue. The tenant's application for a rent reduction is dismissed.

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: January 05, 2010.

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Dispute Resolution Officer