



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes MT, CNR, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution for more time to file an application and to cancel a notice to end tenancy.

### Issues(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent; to a monetary Order to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Preliminary Issue

The tenancy agreement submitted listed different landlords than listed on the application. Clarification was provided at the hearing that the tenants entered into the tenancy agreement with previous owners and the current owner of the property took possession of the residential property on November 16, 2009.

### Background and Evidence

The landlord submitted into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on March 1, 2009 for a month to month tenancy with monthly rent in the amount of \$800.00 due on the 15<sup>th</sup> of each month, with a security deposit of \$400.00 and a pet damage deposit of \$400.00 paid on March 15, 2009; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on December 17, 2009 with an effective vacancy date of December 30, 2009 for unpaid rent in the amount of \$800.00.

The tenant testified that the landlord had issued a 2 Month Notice to End Tenancy for Landlord's Use on Monday November 23, 2009 with an effective vacancy date of February 14, 2010.

The tenant further testified that they had entered into an agreement with the landlord that they would not have to pay rent for the period January 15 to February 14, 2010 as

compensation provided under Section 51 of the *Act*. The tenant stated that they had also agreed that because they had paid a security deposit and pet damage deposit equal to the total amount of monthly rent that the landlord would accept that as payment for rent for the period between December 15, 2009 and January 14, 2010.

The landlord testified that he had had a conversation with the female tenant who had asked for the above noted arrangement but that he told her he would look into it and get back to her.

The landlord requested an Order of Possession for February 14, 2010.

### Analysis

As both parties agreed that the tenancy was ending on February 14, 2010 due to the landlord's 2 Month Notice and the landlord intends to return the security deposit and pet damage deposit they further agreed that this 10 Day Notice to End the Tenancy could be cancelled.

Despite the landlord's agreement to the use of the pet damage deposit and security deposit for rent for the period of December 15, 2009 to January 14, 2010, he does not extinguish his right to file an Application for Dispute Resolution against the tenants for any compensation or damages that may be warranted at the end of the tenancy.

### Conclusion

In addition to the settlement reached by the parties relating to the cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, I find that the landlord is entitled to an Order of Possession effective **February 14, 2010 at 1:00 p.m. after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court 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: January 28, 2010.

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Dispute Resolution Officer