



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes**      OPR, MNR, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenants for the cost of this application.

The parties appeared, gave affirmed testimony, and were given the opportunity to cross examine each other on their evidence. An advocate also attended with the tenants. All information and testimony provided has been reviewed and is considered in this Decision.

### **Issues(s) to be Decided**

Is the landlord entitled to an Order of Possession for unpaid rent or utilities?

Is the landlord entitled to a monetary order for unpaid rent or utilities?

### **Background and Evidence**

This month-to-month tenancy began on October 31, 2007 and the tenants still reside in the rental unit. There is no written tenancy agreement, but the parties agree that rent in the amount of \$1,230.00 is payable in advance on the 1<sup>st</sup> day of each month. There are 3 bedrooms and each tenant occupying those rooms pay a pro-rated amount of rent in the amount of \$410.00 each. The tenants in this case share a bedroom, and therefore their share is \$410.00 per month.

The landlord testified that he did not collect a security deposit from any tenants. He further testified that the rent for August, 2010 was not paid by anybody, and on September 7, 2010 he and his brother attended the unit and served the tenants with an eviction notice. He stated that it was given personally to the male tenant. The notice did not have names on it, and was issued to "All Tenants" and was effective October 15, 2010. Further, on October 20, 2010 the landlord served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit. A copy of the notice was not provided in advance of the hearing, however the landlord further testified that the document served was one page. The landlord stated that he is claiming \$3,690.00 for unpaid rent for the months of September, October and November, 2010.

The male tenant testified that the rent for August and September, 2010 was paid. He further testified that the landlord's girlfriend also resides in the building, and she had called the Ministry claiming to be the landlord, so the rent was cut off by the Ministry until an Intent to Rent form was provided. He further testified that he offered to pay the full amount of rent to the landlord's brother around the end of September and on September 30, 2010 he left the rent money, being \$410.00 cash in the mailbox of the landlord's girlfriend with a note that she had left pasted to their door. The note said, "Pay the rent on time." He also stated that she would not speak to the tenants and left them many notes.

The female tenant testified that they were late with the rent for August, 2010 because the landlord and his girlfriend were away. As soon as they asked for the rent, it was paid in full. She further stated that the landlord's girlfriend didn't like the people living with them, and she passed them many notes. She further stated that they paid the landlord a security deposit in the amount of \$600.00.

### **Analysis**

The *Residential Tenancy Act* states that:

**46** (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

(2) A notice under this section must comply with section 52 [*form and content of notice to end tenancy*].

The landlord testified that he served only one page of the notice to end tenancy, and I find that the landlord has failed to establish that the notice complies with section 52.

The landlord also failed to establish what rent was paid and what rent was not paid. Further, the landlord failed to establish what portion of the unpaid rent, if any was the responsibility of these tenants.

### **Conclusion**

For the reasons set out above, the landlord's application is hereby dismissed in its entirety.

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: December 01, 2010.

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Dispute Resolution Officer