



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR & RD

### Introduction

This hearing dealt with cross applications by the parties. The landlord seeks an Order of Possession due to non-payment of rent by the tenant. The tenant seeks authorization to reduce the rent due to loss of use of the refrigerator. 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 to me.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession related to non-payment of rent?

Is the tenant entitled to a rent reduction due to loss of use of the refrigerator?

### Background and Evidence

This tenancy began on August 1, 2010 for the monthly rent of \$1,000.00 due on the 1<sup>st</sup> of each month. The tenancy was for one year ending July 31, 2011.

On September 3, 2010 the landlord served the tenant with a 10 day Notice to End Tenancy Due Unpaid Rent. The notice declared that the tenant failed to pay outstanding rent owed of \$825.00.

The landlord confirmed that he continued to collect rent for the months of October and November but stated that the tenant has not paid any rent for December 2010 or January 2011. The landlord did not provide any receipts or accounting of the unpaid rent.

The tenant seeks a rent reduction on the basis that he has not had an operating refrigerator for three months. The tenant acknowledged that he stopped paying rent in December when the landlord would not fix the refrigerator. The landlord argued that he would have repaired the refrigerator if the tenant had paid the outstanding rent.

The parties reached a mutual agreement ending the tenancy on **January 27, 2011 at 12:00 p.m.**

### Analysis

I dismiss both applications.

I find that the landlord reinstated the tenancy by accepting repeated rent payments after issuing the 10 day Notice to End Tenancy. Although there was insufficient notice to determine whether all the outstanding rent was paid for September 2010 or not, I am satisfied that by accepting rent for two further months the landlord cannot rely on the September 2010 notice to end tenancy. The landlord should have issued a new and current notice to end tenancy.

I also deny the tenant's application for a rent reduction. Although I accept that the landlord failed to repair the refrigerator as required by sections 27 and 32 of the *Act* and find that the landlord should have repaired the refrigerator even though the rent was not paid, the tenancy is ending and there is no means to grant the tenant a rent reduction.

Both parties are at liberty to file further applications for Dispute Resolution seeking monetary claims for loss or damage resulting from their perspective breaches of the *Act*.

Pursuant to section 63 of the *Act* I am documenting the parties' mutual agreement to end the tenancy effective **January 27, 2011 at 12:00 p.m.**

### Conclusion

The parties' applications for dispute resolution have been dismissed.

The parties have mutually agreed to end the tenancy effective January 27, 2011 at 12:00 p.m.

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 19, 2011.

---

Residential Tenancy Branch