



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes** MT, CNR

### **Introduction**

This hearing was convened by way of conference call to deal with the tenants' application permitting the tenants more time to make an application to cancel a notice to end tenancy, and for an order cancelling a notice to end tenancy for unpaid rent or utilities.

The landlord company was represented at the hearing by two agents, one being the property manager and the other the caretaker who also collects the rent. One of the tenants also attended the conference call hearing. All parties gave affirmed testimony and were given the opportunity to cross examine each other on their evidence. All information and testimony provided has been reviewed and is considered in this Decision.

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

Are the tenants entitled to more time to make an application to cancel a notice to end tenancy?

Are the tenants entitled to an order cancelling a notice to end tenancy for unpaid rent or utilities?

### **Background and Evidence**

This month-to-month tenancy began on July 15, 2009 and one of the named tenants still resides in the rental unit. Rent in the amount of \$750.00 per month is payable in advance on the 1<sup>st</sup> day of each month, although there is no written tenancy agreement. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$375.00.

The landlord's agents testified that from October, 2010 to date the landlord has received \$500.00 per month for rent and no money for the month of March. The tenants had

promised to pay the other \$250.00 per month but have not made any of those payments.

On March 2, 2011 the landlord's agents served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, but neither party provided a copy of that notice prior to the commencement of the hearing. One of the landlord's agents testified that the notice stated that the tenants were in arrears \$2,000.00 that was due on March 1, 2011 and contained an expected date of vacancy of March 12, 2011. He stated that he was driving his car during the hearing and did not have the benefit of reading from that notice to provide accurate evidence.

Later, during the course of the hearing, the landlord's agents stated that the landlord had in fact received \$500.00 towards the rent in March, and the notice to end the tenancy ought to have stated that \$1,500.00 was overdue.

The tenant testified that he sent a notice to the landlord to attempt to settle this dispute and that the other tenant moved out two months ago. He now has a new roommate and paying the rent in full on time won't be an issue in the future, but the tenant does not have \$1,500.00 to cover the arrears at this time.

### **Analysis**

In the circumstances, I find that the notice to end the tenancy given by the landlord contains an incorrect amount of rental arrears. I don't have the benefit of reviewing the notice, and one of the landlord's agents provided testimony of what is contained in the notice from memory without having a copy to refer to, and from the testimony provided by the parties, I cannot uphold the notice. Further, I do not have an application by the landlord for an Order of Possession, and I find that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities should be cancelled.

### **Conclusion**

For the reasons set out above, the notice to end tenancy is hereby cancelled.

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: March 23, 2011.

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Residential Tenancy Branch