



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ONC, MNSD, OLC, ERP, RP, LRE, FF

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is an application to cancel three and Notice to End Tenancy, a request for an order for return of the security deposit, a request for an order for the landlords to comply with the Act, a request for emergency repairs, a request for repairs, a request to suspend or set conditions on the landlords right to enter the rental unit, and request for recovery of the filing fee.

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application. For claims to be combined on an application they must related.

Not all the claims on this application are sufficiently related to the main issues to be dealt with together.

I therefore will deal with the request to cancel the three Notices to End Tenancy and a request for recovery of the filing fee, and I dismiss the remaining claims, with liberty to re-apply.

### Background and Evidence

#### Section 49 Notice to End Tenancy for landlord use

The landlords testified that this notice was served on the tenants by hand on May 25, 2011 and I accept that testimony. Therefore since a dispute of a section 49 Notice to End Tenancy must be filed within 15 days, it is my decision that this application has been filed outside the time limit and I will not proceed with the application to dispute the notice.

The tenants claim that the notice was served on May 31, 2011 however I accept the landlord's direct testimony that the notice was served on May 25, 2011.

Further even if the notice had been served on May 31, since the application was not filed until June 17, 2011, it was still outside the 15 day time limit.

Therefore the section 49 Notice to End Tenancy for landlord use is upheld.

#### Section 47 Notice to End Tenancy for cause

This Notice to End Tenancy was served on the tenant by hand on June 6, 2011 and the tenants had 10 days to dispute this notice. The dispute was filed on the 11th day, June 17, 2011, however it is my decision that I will proceed with the request to cancel this notice, because the tenant was dealing with a violent death of his stepbrother in early June of 2011.

The landlords testified that:

- The rent has been late numerous times over the years, and this year alone there have been four NSF cheques.
- They have provided bank statements and copies of the cancelled cheques or NSF cheques to show the numerous late payments.

The tenant testified that:

- Rent has been late numerous times however the majority of those times they asked the landlord to hold the rent for a few days, and the landlord agreed to do so.
- Whenever the rent cheques have been returned NSF, the rent has always been paid as soon as possible either with a replacement cheque or by cash.

### Analysis

The Residential Tenancy Act allows the landlord to end the tenancy for repeated late rent payments, and it is my finding that the landlords have shown that there have been numerous late rent payments over the term of this tenancy, and in fact there have been four late payments this year alone.

Therefore it is my decision that I will not cancel the section 47 Notice to End Tenancy for cause, and this tenancy will end on July 31, 2011.

### Section 46 Notice to End Tenancy for non-payment of rent

The landlords testified that the June 2011 rent has now been paid in full and since this tenancy is ending on July 31, 2011 pursuant to this section 47 Notice to End Tenancy, they do not wish to pursue any order with respect to the 10 day Notice to End Tenancy.

Conclusion

The tenant's application to cancel the Notices to End Tenancy is dismissed, and I have issued an Order of Possession to the landlords for 1:00 p.m. on July 31, 2011.

I also deny the request for recovery of the filing fee.

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: July 19, 2011.

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Residential Tenancy Branch