



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, CNC, ERP, RP, OPR, MNR, FF

### Introduction

This hearing dealt with an application by the tenants for an order compelling the landlord to perform repairs and a cross-application by the landlord for an order of possession and a monetary order. Both parties participated in the conference call hearing.

At the hearing the tenant in attendance, B.A., advised that it had been his intent to dispute the notices to end tenancy. Although this was not indicated on the tenants' application, the tenants had included the notices in their evidence and their narrative indicated reasons why they believed their tenancy should not end. I found that the failure to check the box asking for a cancellation of the notices to end tenancy was a mere oversight and that the landlord was aware that the tenants had intended to dispute the notices. I therefore amended the applications to include a claim to dispute the notices.

### Issues to be Decided

Should the notices to end tenancy be set aside?  
Should the landlord be ordered to perform repairs?  
Is the landlord entitled to a monetary order?

### Background and Evidence

The facts were not in dispute. The tenants are obligated to pay \$825.00 per month in rent and failed to pay their rent in the month of July 2011. On July 4 the landlord served the tenants with a 10-day notice to end tenancy for unpaid rent and a 1 month notice to end tenancy for cause.

The tenants took the position that they should not have to pay rent until the landlord had repaired damaged from a fire which occurred at the rental unit.

### Analysis

Section 26(1) requires tenants to pay rent when it is due under the tenancy agreement regardless of whether the landlord has complied with the Act. I find that the tenants did not have the right to withhold their rent and consequently I decline to set aside the notices.

I find that the landlord is entitled to an order of possession based on unpaid rent for the month of July, which as of the date of this hearing, remains unpaid. The landlord stated that he would be willing to wait until August 31 for an order to take effect and I therefore make the order effective on that date. The tenants must be served with the order. If they fail to comply, it may be filed in the Supreme Court and enforced as an order of that Court.

As the tenancy will be ending, I dismiss the tenants' claim for an order compelling the landlord to perform repairs.

I find that the landlord is entitled to recover the \$825.00 in unpaid rent for July and the \$50.00 filing fee paid to bring his application. I grant the landlord a monetary order under section 67 for \$875.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The tenants' claim is dismissed in its entirety.

The landlord is granted an order of possession and a monetary order for \$875.00.

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: August 08, 2011

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Residential Tenancy Branch