



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes CNC, CNR, FF, LAT, OLC, RR, OPR, OPC, MNSD, MNR, MND,  
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

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

Not all the claims on these applications are sufficiently related to the main issue, to be dealt with together.

I therefore will deal with landlords request for an Order of Possession based on the Notice to End Tenancy for outstanding rent, the landlords request for a monetary order for that outstanding rent, and the tenants application to cancel the Notice to End Tenancy. I dismiss the remaining claims, with liberty to re-apply.

### Background and Evidence

The tenant testified that:

- He attempted to pay the rent, in cash, to the landlord on August 2, 2011, however the landlord refused to accept the cash.
- He has no evidence to support his claim of having attempted to pay the rent other than his own word.
- Subsequently the landlord served him with a 10 day Notice to End Tenancy for non-payment of rent.
- Since receiving the Notice to End Tenancy he has not attempted to pay the rent again.

The tenant is requesting that the Notice to End Tenancy be cancelled.

The landlord testified that:

- The tenant has never offered to pay the August 2011 rent, and they certainly have never refused to accept any rent.
- The tenant is simply refusing to pay the August 2011 rent, and now the September 2011 rent is also outstanding.

The landlords are therefore requesting that an Order of Possession be issued for as soon as possible, that an order be issued for the outstanding rent for August 2011 and September 2011, and that they be allowed to keep the full security deposit towards this claim.

### Analysis

Is my finding that the tenant has not met the burden of proving that he has ever attempted to pay the August 2011 rent. It is just his word against that of the landlords and that is not sufficient evidence to meet the burden of proof.

Therefore since the full August 2011 rent is still outstanding it is my decision that I will uphold the Notice to End Tenancy and I will issue an Order of Possession based on that notice.

I also allow the claim for the full outstanding August 2011 rent, and for one half of the September 2011 rent, as I find it unlikely that the rental unit will be re-rented before the middle of September 2011.

I dismiss with liberty to reapply the claim for rent for the remainder of September 2011.

Conclusion

Tenant's application

The tenant's application to have the 10 day Notice to End Tenancy cancelled is dismissed in that order that the tenant bear the cost of the filing fee he paid for his application for dispute resolution.

Landlord's application

I have issued an Order of Possession that is enforceable two days after service on the tenant.

I have allowed the full claim for August 2011 rent of \$1050.00, and one half of the September 2011 rent, for a total of \$1575.00. I also order recovery of the landlords filing fee of \$50.00

Therefore the total amount allowed is \$1625.00 and I therefore order that the landlord may retain the full security deposit of \$525.00, and I have issued a monetary order in the amount of \$1100.00.

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: September 02, 2011.

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Residential Tenancy Branch