



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

Landlord's application filed August 9, 2011: OPR; MNR; MNDC, FF

Tenants' application filed August 13, 2011: MT; CNR; MNSD; OLC; MNDC; LRE; LAT; AS; FF

### Introduction

This matter was convened to hear cross-applications. The Landlord seeks an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenants.

The Tenants apply for more time to file an application to cancel a Notice to End Tenancy for Unpaid Rent issued August 2, 2011 (the "Notice"); to cancel the Notice; for return of the security deposit; for an Order that the Landlord comply with the Act, regulation or tenancy agreement; for compensation for damage or loss under the Act, regulation or tenancy agreement; for an Order suspending or setting conditions on the Landlord's right to enter the rental unit; for authorization to change the locks to the rental unit; for an Order allowing the Tenant to assign or sublet the rental unit; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

### Preliminary Matters

The Tenants have applied for more time to file their application to cancel the Notice. It was determined that the Landlord served the Tenants with the Notice on August 2, 2011.

Section 46(4) of the Act allows a tenant to dispute a 10 day notice to end tenancy for unpaid rent within 5 days of receiving the notice. Section 66 of the Act allows the Director to extend the time limit in extenuating circumstances, or if the landlord agrees to the extension. However, in either case, the Director **must not** extend the time limit to make the application beyond the effective date of the notice.

In this case, the Notice was served on August 2, 2011, and therefore the effective date was August 12, 2011. The Tenants filed their application on August 13, 2011, which is beyond the effective date of the Notice. Therefore, **the Tenants' application for an extension under the provisions of Section 66 of the Act is dismissed and their application to cancel the Notice will not be heard.**

The Residential Tenancy Rules of Procedure, Rule 2.3, states that for disputes to be combined on an application they must be related. I find that the Tenants' monetary claims and requests for various Orders are not sufficiently related to the main issue, which is to cancel the Notice. For these reasons, I dismiss that portion of the Tenants' application **with leave to reapply.**

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent and loss of revenue?

### **Background and Evidence**

This tenancy began on May 1, 2011. Monthly rent is \$750.00, due of the first day of each month, and does not include utilities.

The Landlord's agents testified that the Tenants did not pay rent when it was due on August 1, 2011, and therefore the Notice was issued.

The Landlord's agents testified that the Tenants paid the outstanding rent on August 19, 2011, by money order.

### **Analysis**

I find that on August 19, 2011, by accepting payment of August's rent without providing the Tenants with "use and occupancy only" of the rental unit, the Landlord reinstated the tenancy agreement.

The Landlord has reinstated the tenancy and therefore her application for an Order of Possession is **dismissed**. The Landlord's application for a monetary order for unpaid rent and loss of revenue is also **dismissed**.

I order that both parties bear the cost of filing their own applications.

### **Conclusion**

The Landlord's application is **dismissed in its entirety**.

The Tenants' application for more time to file an application to cancel a Notice to End Tenancy, and to cancel the Notice to end Tenancy is **dismissed**.

The remainder of the Tenants' application is **dismissed with leave to reapply**.

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 14, 2011.

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Residential Tenancy Branch