



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

A substantial amount of documentary evidence, photo 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 a request to cancel a Notice to End Tenancy that was given for repeated late rent payments.

### Background and Evidence

The landlord served the tenant with a one month Notice to End Tenancy for repeated late rent payments, by posting the notice on the door on April 28, 2012. The tenants admitted that they received the notice on that date.

The landlord testified that:

- The tenant's rent has been late three out of the past five months.
- December 2011 rent was paid ½ on December 3, 2011 and ½ on December 6, 2011.
- March 2012 rent was paid by a branch to branch transfer on March 8, 2012.
- April rent was paid on April 4, 2012 again by branch to branch transfer.
- In my evidence package there are copies of the bank statements showing the transfers.
- They are therefore requesting that the Notice to End Tenancy be upheld and that an Order of Possession be issued.

The tenants testified that:

- December 2011 rent was late because one of the tenants was laid off and went on assistance and the landlord was informed of this at the time.
- March 2012 rent was not paid late, this was a bank error.
- April 2012 rent was late because her son was in hospital and she could not go down and transfer the rent before the fourth.

### Analysis

The Residential Tenancy Act allows the landlord to end the tenancy with a one month notice if the tenant is repeatedly late paying the rent. The Act does not look at why the rent was late, it only looks at if the rent was late, and it is my finding that the landlord has shown that on three occasions the rent has been paid late.

The tenants have admitted that the rent was paid late twice, however it is my finding that the landlord has also shown that the rent was paid late a third time in March 2012 as the landlords bank records clearly show that the transfer was made on March 8, 2012.

The tenants claim to have paid the rent on time, but have provided no evidence in support of that claim.

Conclusion

Therefore it is my decision that the landlord does have the right to end this tenancy and I will not cancel the Notice to End Tenancy. This application is dismissed and an Order of Possession has been issued to the landlord for May 31, 2012.

I informed the parties of my decision at the hearing however after my decision was given, the tenants suddenly claimed that they had not received the landlords evidence package. The landlord had made mention of documents from his evidence package numerous times during his testimony, and at no time did the tenants mentioned that they had not received that evidence. The tenants then asked for an adjournment, however since I had already given my decision, and since the tenants did not make any mention of not having received the documents until my decision was given, I denied the request for an adjournment.

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: May 09, 2012.

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Residential Tenancy Branch