



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to the landlords application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; for an Order permitting the landlord to keep all or part of the tenants security deposit; and to recover the filing fee from the tenant for the cost of this application.

The tenants and landlord attended the conference call hearing and gave sworn testimony. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a Monetary Order to recover unpaid rent?
- Is the landlord entitled to keep the tenants security deposit?

### Background and Evidence

The parties agree that this month to month tenancy started on June 20, 2011 although the male tenant moved into the rental unit in April 2008. Rent for this unit is \$750.00 a month due on the first day of each month. The male tenant paid a security deposit of \$375.00 on May 01, 2008.

The landlord testifies that the tenant was served with a 10 Day Notice to End Tenancy on July 12, 2012. This notice was served upon the tenant in person and informs the tenant that rent is outstanding of \$1,400.00 that was due on the first of July 2012.

The landlord testifies that the tenant was also served with the One Month Notice to End Tenancy on July 26, 2012 in person. This notice informs the tenant they have 10 days to dispute the notice or the tenancy would end on August 26, 2012. This notice informs the tenants that the reasons the landlord is ending the tenancy is that:

- the tenant is a repeatedly late paying rent
- the tenant has allowed an unreasonable number of occupants in the unit
- the tenant or a person permitted on the property by the tenant has:
  1. significantly interfered with or unreasonably disturbed another occupant or the landlord
  2. has put the landlord's property at significant risk.

The tenants dispute that they were served a 10 Day Notice to End Tenancy or a One Month Notice to End Tenancy. The tenant testifies that the first they saw of these notices was when they received the landlord's evidence package for this hearing. The tenants also testify that the landlord only served the tenant named on the application with notice of this hearing and did not serve the female tenant named on the tenancy agreement.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. A landlord is required to serve both tenants with any notices to end a tenancy. I have reviewed both notices provided in the landlord's evidence package and find that the landlord has only named the male tenant on both notices. I find that the landlord has only named the male tenant on this application for this hearing. When two

tenants are named on a tenancy agreement those tenants are entitled to be served with any notices and have a right to know why the landlord would be ending the tenancy.

The tenant has disputed that they received either notice to end the tenancy until they received the landlord's evidence package. I further find that the landlord has only provided one page of the 10 Day Notice in his evidence package. Although the landlord has provided a proof of service for this 10 Day Notice; as the landlord has not provided the second page of this notice in evidence and the tenant has disputed receiving this notice it is my decision that the 10 Day Notice to End Tenancy is invalid and I cannot uphold the landlords application for an Order of Possession of based on this notice.

As the landlord has provided no evidence to show that the One Month Notice to End Tenancy was served upon the tenants and the tenants have disputed that this notice was served upon them until they received the landlord's evidence package; I cannot uphold the landlord's application for an Order of Possession based on this notice.

As there are many discrepancies within the landlords application I find that the landlords application for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, and order to keep the tenants security deposit, and to recover the filing fee for this application are all dismissed with leave to reapply.

The landlord is at liberty to re-serve the tenants naming both tenants on any notices to end tenancy. The landlord is then at liberty to re-file an application for dispute resolution.

### Conclusion

The landlord's 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: October 10, 2012.

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Residential Tenancy Branch