



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

Dispute Codes      OPR, CNR, MNS

### Introduction

This hearing was convened in response to applications by the tenant and the landlord.

1. To allow a tenant more time to make an application to cancel a notice to end tenancy;
2. To cancel a notice to end tenancy for unpaid rent;
3. The tenant's application is seeking orders as follows:
4. Make emergency repairs for health and safety reasons;
5. Make repairs to the unit, site or property; and
6. Provide services or facilities required by law.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent and utilities; and
3. To keep all or part of the security deposit.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing

### Preliminary Issue

In these circumstances the parties have indicated several matters of dispute on the Applications for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on these Applications for Dispute Resolution are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to set aside the Notice to End Tenancy and the landlords' application for an order of possession.

The balances of the applications are adjourned and a reconvene notice of hearing will be sent to the parties. The landlords are to provide to the tenant copies of the utility bills that are in dispute no later than November 23, 2012. The tenants are to review those utility bills and provide copies of payments to the landlord, no later than December 7,

2012. Both parties are to file copies of the documentation, which were exchanged to other party, no later than December 14, 2012, to the Residential Tenancy Branch.

### Issue(s) to be Decided

Should the tenant be allowed more to make an application to cancel a notice to end tenancy?

Should the notice to end tenancy be cancelled?

Is the landlord entitled to an order of possession?

### Background and Evidence

The tenancy began on July 1, 2012. Rent in the amount of \$1,300.00 was payable on the first of each month. A security deposit of \$650.00 was paid by the tenants.

The tenants acknowledged they received the ten day notice to end tenancy on October 3, 2012, under the provisions of the Act the tenant had five days to file an application for dispute resolution. The tenants' application was filed on October 15, 2012, requesting to allow more time to make an application to cancel a notice to end tenancy.

The tenant stated she tried on several occasions to pay rent to the landlord however, the landlord refused to accept payment. The tenant stated she has no reason why the application was filed late.

The landlords deny the tenant made any attempt to pay rent.

### Analysis

Under section 66(1) of the Residential Tenancy Act and extension of time can only be granted where the applicant has established that there are exception circumstances.

In this case the tenant (HM) stated she tried to pay rent to the landlord on several occasion, however, the landlord disputed this claim.

The tenant (HM) also stated that she has no reason for the application to dispute the notice was filed late. I find the tenant did not take reasonable and appropriate steps to comply with the relevant time limit, and the tenant has failed to prove that an exceptional circumstance, such as a medical emergency, prevented them from filing the application. Therefore, I dismiss the tenants' application to allow a tenant more time to make an application to cancel a notice to end tenancy.

As the tenants' application is dismissed and the landlord filed an application an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

I find that the landlords are entitled to an order of possession effective **two days** after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The landlords are granted an order of possession.

The balances of the applications are adjourned and a notice of reconvene will be sent to parties.

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: November 09, 2012.

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Residential Tenancy Branch