



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

Landlords: OPR, OPB, MNR, MNSD, FF  
Tenants: CNC, CNR, MNDC, OLC, ERP, ER, RR, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution with the landlord seeking an order of possession and a monetary order. The tenants sought to cancel notices to end tenancy; a monetary order; orders to have the landlord make repairs; emergency repairs and to reduce rent.

The hearing was conducted via teleconference and was attended by one of the landlords and one of the tenants.

The tenant testified that he was in the process of moving out of the rental unit and that he would be completed by the end of the day of the hearing. As such, I find no need to adjudicate the portions of the tenants Application seeking to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement; to have the landlord make repairs and emergency repairs; to reduce the rent for repairs not made and I amend the tenants' Application to exclude these matters.

The tenant clarified, in his testimony, that he was seeking compensation in the amount of \$25,000.00 that includes ½ month's rent for the period from July 2012 to November 2012 due to the landlord's failure to disclose information about the rental unit prior to the signing of the tenancy agreement for a total of \$12,500.00. The tenant also submitted that the balance of his claim was for moving costs resulting from the landlord's non-disclosure and the issuance of notices to end tenancy.

The landlord requested an order of possession despite the tenant's assertion that he would be fully vacated by the end of the hearing. With agreement of the tenant I grant the landlord an order of possession.

### Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

It must also be decided if the tenants are entitled to a monetary order for compensation for damage or loss resulting from a violation of the *Act*, regulation or tenancy agreement

and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 67, and 72 of the *Act*.

### Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties in June 2012 for a 1 year fixed term tenancy beginning on July 1, 2012 for a monthly rent of \$5,000.00 due on the 1<sup>st</sup> of each month with a security deposit of \$2,500.00 paid on June 20, 2012.

The parties agreed the landlord had issued a 1 Month Notice to End Tenancy for Cause on November 30, 2012 and a 10 Day Notice to End Tenancy for Unpaid Rent on December 2, 2012. The parties agreed the tenants did not pay rent for the months of December 2012 or January 2013.

The parties agree the residential property consisted of at least 12 bedrooms and 4 kitchen units but that after an inspection by city by-law enforcement officers the landlord was ordered to remove two of the kitchens. The tenant submits they removed the stoves from these units.

The tenant testified that because some of the occupants of the rental unit were dealing with addiction issues they had to have them moved immediately after the landlord issued his notices to end tenancy and as a result they have incurred substantial costs for moving including the physical move; security deposit at new location and rental costs. The tenants provided no evidence of any costs at all.

### Analysis

Based on the tenant's testimony that no rent was paid for December 2012 and January 2013, and pursuant to Section 26 of the *Act*, which stipulates that a tenant must pay rent when it is due under the tenancy agreement whether or not the landlord complies with the *Act*, regulation or tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent I find the tenants have provided no evidence that they had a right under the *Act* to deduct any amount of rent. I find the landlord is entitled to \$10,000.00 for this rental period.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

In regard to the tenants' claim that the landlord failed to disclose information regarding the rental unit, I find that in accordance with Section 16 of the *Act* the obligations of the landlord to the tenant did not begin until the parties had entered into a tenancy agreement and the tenancy began. In addition, despite the requirements of the by-law enforcement officers to remove the two stoves, I find the tenant's have provided no evidence to establish that the inclusion of these stoves were material to the tenancy.

I also find, based on the tenant's testimony that despite being unable to use a couple of stoves in the rental unit the tenants have failed to provide any evidence that they suffered a loss as a result of the restriction of these stoves. Further, I find the tenants have failed to provide any evidence to substantiate the value of any possible loss. I therefore dismiss this portion of the tenants' Application.

In addition, I find the tenants are vacating the rental unit solely in response to the landlords' notices to end tenancy and therefore the tenants have accepted that they provided the landlord cause to issue a Notice to End Tenancy for Cause and for Unpaid Rent and therefore the tenants have failed to provide any evidence of a violation of the *Act*, regulation or tenancy agreement on the part of the landlord that caused them to move. I dismiss this portion of the tenants' Application.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$10,100.00** comprised of \$10,000.00 rent owed and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$2,500.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$7,600.00**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

As the tenants were unsuccessful in their Application I dismiss their claim to recover the filing.

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: January 11, 2013

