



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, CNC, OLC, ERP, RP, PSF, LRE, LAT, FF

### Introduction

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

The tenant seeks:

1. To cancel a Notice to End Tenancy given for Cause;
2. A monetary Order for compensation for damage and/or loss;
3. An Order that the landlord comply with the Act;
4. An Order that the landlord make repairs and emergency repairs;
5. An Order that the landlord provide services and facilities required by law;
6. An Order that the landlord's right of entry be restricted;
7. An Order that the tenant have the right to change the locks on the rental unit; and
8. To recover the filing fees paid for this application.

The landlord seeks:

1. An Order of Possession; and
2. To recover the filing fees paid for this application.

Both parties appeared the hearing of this matter and gave evidence under oath.

### Issue(s) to be Decided

Is either party entitled to the Orders sought?

### Background and Evidence

This tenancy began in September 2011. Rent was fixed at \$2,500.00 per month and the tenant paid a security deposit of \$1,000.00.

The landlord served a Notice to End Tenancy for cause on February 26, 2013. At the hearing of this matter the parties agreed to end this tenancy effective June 30, 2013.

Although DM is listed in this Application as the only tenant in the rental property, the parties agree that DM occupies a trailer on the rental property while RC lives in the rental house with her children. DM did occupy the rental house but moved into the trailer to allow for more room for RC's children. Both DM and RC have agreed that they will vacate the rental property on June 30, 2013 but both say repairs are required to render the house habitable until they move out.

The tenant testified that when he first rented the home in 2011 the landlord agreed to do all sorts of repairs but has failed to do so. The parties agree that none of the repairs were detailed in writing and condition inspection reports were not prepared at move-in. RC testified that as they were moving in, another tenant was moving out and the property was never vacant completely in order to prepare a condition inspection report.

RC says the shower is leaking in the en-suite bathroom, there is a leak in the roof, there is no electricity in her son's bedroom and it becomes very cold, the stove doesn't work and there were rats on the property. Both MH and RC agree that the rat problem has now been rectified however the other problems remain. MH and RC state that the landlord comes to the property whenever he wishes without proper notice and they would like this to stop.

Further, the tenants say the landlord has not made arrangements with the City to have their garbage picked up. The tenants say they have tried to make these arrangements themselves but the City will only accept the property owner's application. The tenants say that they keep the garbage in RC's truck and take it to the dump from time to time but they require regular pick-up as the garbage accumulates.

The landlord says the rental unit was in good condition when this tenancy began. The landlord supplied a MLS Listing of the home dated July 22, 2010 which he says depicts the condition of the rental unit at move-in. It describes the home as having "...new flooring, refinished counter tops and cabinets and a newly built master bedroom..." The landlord says the problems with the rental property have arisen because the tenant has collected garbage onto the property which has attracted rats that have eaten through the wires and because the tenant has altered the electrical wiring to facilitate his marihuana grow operation.

With respect to the roof leaking, the landlord supplied an invoice dated November 3, 2011 regarding the installation of a 30 year asphalt shingle roof at a cost of \$3,600.00.

Further, the landlord supplied an electrical invoice showing that he spent \$7,000.00 on electrical upgrades to the barn and \$1,000.00 on electrical upgrades to the rental house. In that invoice the electrician states:

...he [the landlord] also got us do the internal fix ups in the house for another \$1000 which we did by going there twice. While visiting this property we noticed that the tenants are doing additional fix ups themselves without the home owner's knowledge...

With respect to the tenant's marihuana grow operation, the landlord states that he had no knowledge it. The landlord submitted that it was not until he received a \$1,700.00 hydro bill that he discovered what the tenant was doing. It was at this time that he issued the Notice to End Tenancy for Cause although this Notice is no longer an issue as the parties have now agreed to end this tenancy themselves.

With respect to repairs, the landlord says the tenant works for him from time-to-time as a handy man. The landlord says the arrangement has always been that when repairs are required the landlord supplies the materials and the tenant supplies the labour.

The landlord says the City supplies garbage pick-up for everyone on the street if the tenant would put his bins out for pick-up which he does not do. However, the landlord submits that there is a limit to the amount of garbage the City will pick-up and the tenant has exceeded the limit and must take their garbage to the dump on his own.

With respect to his visiting the property, the landlord says the tenant had a garden on the property and chickens. The landlord says he used to have a cordial relationship with the tenant and the tenant invited him to help himself to vegetables and eggs and he attended the property to do so.

The tenant says he never authorized the landlord to take vegetables or eggs from the property and the landlord simply assumes he may do so. Further that the roof repairs made were to the barn not the rental house where the leaks remain.

### Analysis

The parties have agreed to end this tenancy. By consent I will issue an Order of Possession effective at 1 o'clock on Sunday, June 30, 2013.

With respect to the repairs to the roof, I will accept RC's evidence that there are leaks which were not repaired when the landlord undertook repairs to the barn roof. I

therefore direct the landlord to have the roof inspected to determine what repairs may be required to stop the leaking and to undertake those repairs. I direct the landlord to have an inspection and complete any necessary repairs by May 15, 2013. If the landlord does not comply with this Order the tenants are at liberty to apply for compensation in this regard after May 15, 2013.

With respect to the electrical problems, the parties agree that there is garbage on the property and this has attracted rats that have chewed through electrical wiring in the rental building. The parties disagree why the garbage surrounds the property.

With respect to the reason for the abundance of garbage the tenant says there is a lack of pick-up. The tenant says the City refuses to pick up the garbage unless the landlord makes the arrangements. The landlord says this is not true. The landlord says it is the amount of garbage that the City is refusing to pick up and the fact that the tenant does not put his bins out.

Having stated that the City has refused to pick up garbage at the property due to some action or inaction of the landlord, I would expect the tenant to supply some evidence of this such as a letter from the City. However, he has not done so. Due to this lack of supporting evidence I find that I prefer the evidence of the landlord with respect to the garbage issue. I find that in failing to manage their garbage properly it is reasonable and probable to conclude that the tenant has created a circumstance which has attracted rats. Further, as the evidence of both parties shows, the rats have chewed through electrical wires and it is reasonable and probable to conclude that chewed electrical wires will not function properly and this is the cause of the electrical problems in the rental unit.

However, the Residential Tenancy Act policy states that the **landlord** is responsible for ensuring that rental units and property meet “health, safety and housing standards” established by law, and for ensuring that rental units are reasonably suitable for occupation given the nature and location of the property. Given the nature and location of this property, electrical services would fall into the category of “health, safety and housing standards”. I therefore direct the landlord to make repairs to the rental unit electrical system forthwith to ensure that it is fully operational throughout the rental unit. I direct the landlord to complete these repairs by May 15, 2013. The landlord remains at liberty to make an application seeking recovery of the cost of these repairs from the tenant.

With respect to the landlord's attendance on the rental property to gather vegetables and/or eggs, while permission to visit the property and gather these items may have

been given at one time, it is clear this is no longer the case. The landlord is therefore ordered to comply with the provisions *Residential Tenancy Act* with respect to attending the property.

While the tenants have sought to change the locks on the rental property I find that they have supplied insufficient evidence to support this claim. This claim is therefore dismissed.

With respect to the tenant's claim for \$4,999.00 for compensation for damage and/or loss, I find that the tenant has failed to bring sufficient evidence to support this claim. This claim is also therefore dismissed.

As both parties have paid filing fees to pursue their claims, I will not award either party recovery of these fees from the other.

### Conclusion

The Orders respecting repairs are set out above. Only a formal Order of Possession will be issued effective June 30, 2013 as agreed.

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: April 18, 2013

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Residential Tenancy Branch

