



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNDC, OLC, RP, RR, O

### Introduction

This decision deals with two applications for dispute resolution, both brought by the tenants.

A substantial amount of documentary 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

One application was a request to cancel a one-month Notice to End Tenancy; this application was dealt with first as it was the more urgent of the two.

The other application was a request for a Monetary Order for \$718.00, a request for an order for the landlord to comply with the Act, a request for an order for the landlord to make repairs, a request for an order allowing the tenant to reduce the rent, and a request for recovery of the filing fee. I was ready to proceed with this application after having dealt with the other; however the applicant stated that she was not ready to proceed with this other application.

The issue dealt with at today's hearing, therefore, was whether or not to cancel a Notice to End Tenancy that was given for repeatedly late rent payments.

## Background and Evidence

The landlord testified that:

- The tenants sent a message on June 1, 2013 that an E-transfer of rent had been sent for the June 2013 rent, however on June 2, 2013, when the landlord attempted to accept the transfer, the password would not work.
- The landlord used the password provided by the tenants, however after numerous attempts it still did not work.
- The landlord therefore informed the tenants that the password did not work, and the tenants inform her that they had canceled the transfer and had sent a new transfer.
- The landlord attempted to accept the second transfer however again the password would not work.
- Eventually the tenants supplied her with a different password, and that password worked.
- The rent was eventually accessible on June 2, 2013, one day late, due to the tenant's error and by no fault of the landlord.
- On July 24, 2013 the landlord informed the tenants that she had appointed an agent to act on her behalf, and on July 28, 2013, he, the agent, supplied the tenants with a new e-mail address for them to do their E-transfer, however the tenants refused to do the E-transfer at the new address, and even refused other suggested methods of payment, and insisted on sending their E-transfer to the landlords e-mail address, even though they had been informed that that e-mail address was blocked to them.
- The August 2013 rent as a result of the tenant's insistence on attempting to pay through an e-mail address that was not accepting their e-mails, resulted in the August 2013 rent not being paid until August 8, 2013.
- The September rent was also late and was not deposited until September 6, 2013.
- Therefore rent has been late on three occasions and as a result they decided to end the tenancy for repeatedly late rent payments.

The tenant testified that:

- They sent the rent to the landlord by E-transfer on June 1, 2013 and do not know why the passcode for that E-transfer would not work, however they believe it may be possible that the landlord was just being difficult, because they had requested some repairs be done.
- The landlord eventually informed them of a problem on June 2, 2013, and they did cancel the transfer and re-issued a new E-transfer.

- The landlord also informed them that the second passcode would not work, and eventually they were able to figure out that they had given an incorrect passcode.
- They therefore gave the landlord the correct passcode, and the rent was accepted on June 2, 2013.
- The landlord did send them an e-mail stating that she had appointed an agent to act on her behalf and the agent did contact them two days before August 2013 rent was due, however they did not know the agent and were not comfortable doing an E-transfer to his account.
- They had always paid their rent to the landlord by E-transfer, to her e-mail address, and therefore they sent the E-transfer to the landlord's e-mail address again, even though they were aware that that address had been blocked.
- They fail to see why, even if the landlord had blocked them from sending e-mails, she could not have unblocked it to accept the E-transfer.
- They also thought it was unreasonable to expect them to take the rent to the landlord's house, if she did not want contact with them.
- Eventually on August 8, 2013 they agreed to deposit the rent directly into the landlord's account.
- They admit that the September 2013 rent was late, as a result of them getting a paycheck late.
- They therefore believe that rent was really only late on one occasion, and that the Notice to End Tenancy should be canceled.

### Analysis

It's my finding that the landlord has shown that rent has been late on three occasions, and as a result I will not cancel the Notice to End Tenancy.

It appears that the June 2013 rent was late as a result of the tenants giving an incorrect passcode to the landlord making it impossible for the landlord to accept the E-transfer of rent. The tenants eventually figured out that there had been an incorrect passcode, however the error was theirs and not the landlord's, and therefore rent is still considered to have been paid late.

The tenants attempted to argue that there was some correlation between their requests for repairs, and the landlord's sudden inability to access the E-transfer, however given the fact that the tenants have admitted that they eventually figured out that an incorrect passcode had been given, I believe it's more likely that the landlord was unable to access the E-transfer as a result of an error on the tenants part.

There is no reason why the August 2013 rent could not have been paid on time. The tenants were informed by the landlord that an agent would be acting on her behalf. The tenants were given proper information from the agent on how to pay the rent, however the tenants refused to accept that information and insisted on attempting to pay the rent as they had always done, even though they had been informed that rent could not be paid that way any longer. The tenants were given viable alternatives to pay the rent and refused to accept them and therefore it's my finding that the August 2013 rent was also paid late as a result of the tenant's actions.

The tenants have admitted that they paid the September 2013 rent late.

It is the tenant's responsibility to ensure that rent is paid on or before the due date, and it's my finding that, on three occasions they have failed to do so, either by error on their part, by insistence on paying it by a method that they already knew was not available to them, or by inability to pay.

The landlord therefore did have the right to end the tenancy, and this tenancy ends on October 31, 2013.

### Conclusion

The tenant's application to cancel a Notice to End Tenancy that was given for repeated late rent payments is dismissed, and at the request of the landlord's agent I've issued an Order of Possession for 1:00 PM on October 31, 2013.

As stated above, the applicant stated that she was not willing to proceed with the other application for dispute resolution, and therefore, since the landlord was prepared to proceed, that application has been dismissed without 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 16, 2013

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Residential Tenancy Branch

