



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants to cancel a notice to end tenancy for non payment of rent.

Both parties appeared.

### Preliminary issue

The tenants stated they are no longer residing in the rental unit and are not seeking to cancel the notice to end tenancy. Therefore, I dismiss the tenant's application to cancel the notice. The landlord stated the tenants have not returned the keys and seeks an order of possession. As the tenant's application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

As I have dismissed the tenants' application, and the tenants are not residing in the rental unit I find that the Landlord is entitled to an order of possession effective immediately.

The tenants have amended their application to include a monetary order; however, there was no particulars provided. Section 59 (2) of the Act states an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings as the principles of natural justice require that a person be informed and given particulars of the claim against them. Therefore, I dismiss this portion of their claim with leave to reapply.

The tenants stated the monetary order also included the request for the return of the security deposit. However, the tenants confirmed that they have not provided the landlord with their forwarding address in writing as required section 38 of the Act. Therefore, I find the tenants request for the return of the security deposit premature. Therefore, I dismiss this portion of their claim with leave to apply.

### Conclusion

The tenants' application to cancel the notice to end tenancy is dismissed, the landlord was granted an order of possession.

The balance of the tenants' application was 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: February 27, 2014

---

Residential Tenancy Branch

