



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT CNR OPR MNR MNSD MNDC FF

### Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied to cancel a notice to end tenancy, as well as for an extension of time to make the application. The landlord applied for an order of possession, a monetary order and an order to retain the security deposit in partial compensation of the claim.

The tenant and one of the five landlords participated in the teleconference hearing. The parties confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Preliminary Issue – Extension of Time

On April 2, 2014 the landlord served the tenant with a notice to end tenancy for unpaid rent by posting the notice to the rental unit door. The tenant stated that she found the notice on her door on April 3, 2014. The tenant stated that she attended at the Residential Tenancy Branch office on April 8, 2014 to apply to dispute the notice, but she and others were required to leave the office at 3:50 p.m. on April 8, 2014 because the employees were going to have a meeting. The tenant returned to the Branch on April 9, 2014 and completed her application.

I accepted the tenant's evidence that she attempted to make her application on time, and I granted her the one-day extension.

Issue(s) to be Decided

Is the notice to end tenancy dated April 2, 2014 valid?  
Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenant rents a basement suite in the landlord's house. The monthly rent is \$675, due in advance on the first day of each month. On April 2, 2014 the landlord served the tenant with a notice to end tenancy for unpaid rent. The parties agreed that they both participated in a dispute resolution hearing on April 4, 2014, in which the tenant was successful in her application to cancel a notice to end tenancy for cause.

*Landlord's Evidence*

The landlord stated that the tenant made no payment of April 2014 rent until more than five days after she received the notice to end tenancy. The landlord stated that the tenant still owes \$200 in unpaid rent for April 2014. The tenant paid rent for May and June 2014, and the landlord issued receipts for use and occupancy only. The landlord stated that she was not present on April 5, 2014, but she heard from her family that the tenant came to the landlord's door that day and said she was going to sue the landlord, and the tenant said that she was not there to pay the rent.

*Tenant's Evidence*

The tenant confirmed that she still owes \$200 for April 2014. The tenant stated that she did not pay the rent for April 2014 because there was going to be a hearing on April 4, 2014. The tenant stated that on April 5, 2014 she went to the landlord's door and intended to pay the rent with a cheque from Social Assistance for \$375 and \$300 in cash. However, the landlord who was present started yelling and screaming, and calling the tenant names, and they would not accept the rent.

Analysis

Upon consideration of the evidence and on a balance of probabilities, I find as follows.

I accept the tenant's testimony that she attempted to pay the rent in full on April 5, 2014, but the landlord would not accept payment. The landlord who appeared in the hearing was not present on April 5, 2014 and therefore only presented second-hand information. The landlord who was present on April 5, 2014 did not appear in the hearing to give

testimony and be available for cross-examination. I therefore cancel the notice to end tenancy for unpaid rent dated April 2, 2014.

In regard to the landlord's monetary claim, the tenant confirmed that she owed \$200 in rent for April 2014, and I grant the landlord that amount.

As the landlord's application was only partially successful, I decline to award them recovery of the filing fee for the cost of their application.

### Conclusion

I cancel the notice to end tenancy for unpaid rent dated April 2, 2014, and the tenancy continues until such time as it ends in accordance with the Act.

I grant the landlord an order under section 67 for the balance due of \$200. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: May 30, 2014

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Residential Tenancy Branch

