



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, OPR, MNSD, MNDC, MNR, FF, CNC, CNR

### Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlord. Both files were heard together.

A substantial amount of documentary evidence, photo evidence, digital evidence, and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, 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

First of all it is my decision that I will not deal with all the issues that the tenant has put on his application. For claims to be combined on an application they must related.

Not all the claims on the tenant's application are sufficiently related to the main issues to be dealt with together.

I therefore will deal with the tenant's application to cancel a Notice to End Tenancy, the landlord's application for an Order of Possession based on a Notice to End Tenancy, the landlord's application for an Order for outstanding rent, and the request for recovery of the filing fee, and I dismiss the tenants remaining claims with liberty to re-apply.

### Background and Evidence

The landlord testified that:

- The tenant had fallen well behind on the rent and therefore on May 8, 2014 the tenant was personally served with a 10 day Notice to End Tenancy.
- To date the tenant has failed to comply with that notice and has failed to pay any further rent.
- He is therefore requesting an Order of Possession for soon as possible and a Monetary Order for the outstanding five months rent totaling \$4250.00.

The tenant testified that:

- He did receive the 10 day Notice to End Tenancy, and he does have outstanding rent totaling \$4250.00 to the end of June 2014.
- He is disputing the Notice to End Tenancy, because the landlord has failed to repair deficiencies in the rental unit that have affected his health.
- He has been unable to pay the rent as he has not been able to work due to his medical condition.

### Analysis

Section 46 of the Residential Tenancy Act allows landlord to end tenancy if the tenant fails to pay the rent, and in this case the tenant has failed to pay the past five months rent.

The tenant claims he has been unable to pay the rent as he has been unable to work due to medical problems, however the tenant still has an obligation to pay the rent even if he is unable to work.

Therefore it's my finding that the landlords Notice to End Tenancy is a valid notice, and I will not set that notice aside, and at the request of the landlord I have issued an Order of Possession based on that notice.

I also allow the landlords request for a Monetary Order for that outstanding rent and recovery of his filing fee.

### Conclusion

I have issued an Order of Possession to the landlord that is enforceable two days after service on the tenant.

I have allowed the landlords full monetary claim of \$4300.00 and I therefore order that the landlord may retain the full security deposit of \$425.00 and I have issued a Monetary Order in the amount of \$3825.00.

The tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

As stated previously the tenant's monetary claim is 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: June 24, 2014

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Residential Tenancy Branch

