



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, OPR, FF, CNR, MNDC, MT, RP

### Introduction

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

A substantial amount of documentary evidence, photo 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 on these applications. For claims to be combined on an application they must be related.

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

I therefore will deal with the landlords request for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, the landlords request for a Monetary Order for outstanding rent and utilities, and the landlords request for recovery of the filing fee.

I will also deal with the tenants request to cancel a Notice to End Tenancy that was given for nonpayment of rent, and I dismiss the remaining tenant's claims with liberty to re-apply.

### Background and Evidence

This tenancy began on February 1, 2014 with a monthly rent of \$550.00.

The tenants paid a security deposit of \$275.00 on January 21, 2014.

The landlords testified that:

- The tenants had fallen behind on both the rent and utilities and therefore on May 24, 2014 a 10 day Notice to End Tenancy was posted on the tenant's door.
- The tenants have failed to comply with that notice and have failed to pay any further rent.
- The total rent outstanding at this time is as follows:

May 2014 rent outstanding	\$30.00
June 2014 rent outstanding	\$550.00
July 2014 rent outstanding	\$550.00
Total	\$1130.00

- The tenants have also failed to pay the utilities; however they have not provided any invoices to today's hearing. Utilities are in the tenant's name.

- They are asking for an Order of Possession for soon as possible and a monetary order for the outstanding rent and utilities, plus their filing fee.

The tenants testified that:

- They don't dispute that the above amounts of rent outstanding, however they have had to move out of this rental unit due to health concerns due to black mold in the rental property.
- They do not believe they should have to pay any rent due to the unhealthy living conditions in this rental property.
- Further they have not paid their utilities, because the utilities are insanely high in this very old rental suite.
- They have basically moved out of the rental unit and have no objection to the landlords request for an Order of Possession.

### Analysis

The tenants stated they do not object to the request for an Order of Possession and therefore I have allowed the landlords request for an Order of Possession.

I also allow the landlords request for the \$1130.00 outstanding rent, because the tenants did not have the right to withhold rent without first getting an Order from an Arbitrator allowing them to do so.

I will not allow any claim for outstanding utilities, as the landlords have provided no evidence in support of that claim.

I will allow the landlords request for recovery of their \$50.00 filing fee.

The tenants request to cancel the Notice to End Tenancy is not allowed, especially since the tenants stated they have almost completely moved out of the rental unit.

Conclusion

Landlord's application

Pursuant to section 55 of the Residential Tenancy Act, I have issued an Order of Possession to the landlords, that is enforceable two days after service on the tenants.

I have also issued an Order, pursuant to section 67 of the Residential Tenancy Act, for the tenant's to pay \$1180.00 to the landlords

The landlord's application for an Order for outstanding utilities is dismissed.

Tenant's application

The tenants request to cancel a Notice to End Tenancy is denied.

The tenants request for an order for repairs and emergency repairs are also denied as this tenancy is ending.

As stated above the tenant's application for a monetary award 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: July 30, 2014

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Residential Tenancy Branch

