



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      OLC, ERP, RP, RR, OP, MNDC, FF

### Introduction

This hearing dealt with applications by both the tenants and the landlord. The tenants applied for:

- an order that the landlord comply with the Act, Regulation, or tenancy agreement
- an order that the landlord make emergency repairs for health or safety reasons
- an order that the landlord make repairs to the unit, site, or property
- an order allowing the tenants to reduce rent for repairs, services, or facilities agreed upon but not provided.

The landlord applied for:

- an order of possession
- a monetary order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement
- for an order to recover the RTB filing fee

A representative of the landlord and both the tenants attended the teleconference hearing and gave affirmed evidence.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Are the tenants entitled to an order allowing them to retroactively reduce rent?

### Background and Evidence

The parties agree the tenancy started on March 3, 2014 and the tenants were obligated to pay rent of \$925.00 per month in advance on the first day of the month.

The landlord gave evidence that the tenancy agreement was for a six-month fixed term ending August 3, 2014. A copy of the tenancy agreement apparently signed by the parties on February 16, 2014 was put into evidence and confirms this.

The landlord gave evidence that the parties agreed to extend the tenancy until the end of August 2014. Both parties put a copy of a Mutual Agreement to End Tenancy (the "Mutual Agreement") into evidence, which was signed by the parties on July 16, 2014 and which indicates the tenancy shall end on August 31, 2014.

The tenants do not dispute that they signed the Mutual Agreement. Based on this evidence, I advised the parties that the landlord is entitled to an order of possession effective August 31, 2014. Since the tenancy will be coming to an end shortly, I asked the tenants whether they claimed any remaining repairs required for the last few weeks of their tenancy. The tenants advised that the emergency repairs have been completed. The only remaining claim by the tenants is therefore the claim for a rent reduction.

The tenants claim a rent reduction for various problems they say they experienced throughout their tenancy. The tenants gave evidence that the most significant issues were:

1. The single toilet in the rental unit frequently clogged and overflowed
2. The garbage bin was not accessible by the tenants
3. The kitchen sink drain was clogged
4. There have been insect and mice infestations in the rental property over the past month or two
5. The landlord promised to replace a badly damaged carpet but did not do so.

The tenants gave evidence that they raised these issues with the landlord as soon as they occurred, but the landlord did not take action. The landlord however says the tenants did not advise them of any problems until late July 2014 when the tenants sought to extend the tenancy.

The landlord gave evidence that the tenants have not paid any rent for August 2014 and \$925.00 is owing. The tenants agree they did not pay rent for August.

#### Analysis

Based on the evidence of both parties, the landlord is entitled to an order of possession. I grant the landlord an order of possession effective at 1 p.m. on August 31, 2014 which must be served on the tenants. Should the tenants fail to comply with the order, it may be filed for enforcement in the Supreme Court.

The parties gave contradictory evidence about whether the tenants raised the above problems with the landlord before late July 2014. Since it is the tenants' claim for a rent reduction, the burden of proof is on the tenants to provide evidence that they raised the problems with the landlord earlier. In this case, there was no documentary evidence or witness to confirm the tenants' claim that they raised the issues earlier. I therefore dismiss the tenants' claims for a rent reduction based on insufficient evidence.

Based on the evidence of both parties, I find the tenants did not pay rent of \$925.00 for August 2014. The landlord is also entitled to recover the RTB filing fee of \$50.00 for a total amount due of \$975.00. I grant the landlord a monetary order for that amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

#### Conclusion

I grant the landlord an order of possession. I grant the landlord a monetary order for \$975.00.

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: August 12, 2014

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Residential Tenancy Branch

