



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Lombardy Management Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MND, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and alleged damage to the rental unit, and to recover the filing fee.

At the beginning of the hearing, the landlord's agent (hereafter "landlord") appeared. After approximately 9 minutes into the hearing, the tenants appeared and provided testimony.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

1. Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, monetary compensation and to recover the filing fee?
2. Does this dispute fall under the jurisdiction of the *Residential Tenancy Act* so that I have authority to resolve this dispute?

### Background and Evidence

The landlord submitted at the beginning of the hearing that the listed respondents were not tenants, but rather they were "squatters," and that there was not a tenancy with the respondents, as they moved into the rental unit after other tenants vacated, without permission.

The landlord submitted that the tenants have never paid rent since moving into the rental unit in December 2013 or January 2014 and she was not holding a security deposit for these respondents.

The landlord, who confirmed that she had been working as the assistant manager since April 2014, submitted that the local police would not evict the tenants, as the issue was a residential tenancy matter.

The landlord gave evidence that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on April 16, 2014, by leaving it with the tenant, listing unpaid rent of \$1600 as of April 1, 2014. The effective vacancy date listed on the Notice was April 26, 2014.

The landlord submitted that she believed this was her only remedy to have the respondents evicted from the rental unit, as the local police agency would not intervene, even though she believed the respondents were "squatters."

In response, when the respondents appeared at the hearing, they stated that they were tenants, that they had been dealing with another named person, and that they had been paying rent of \$750 until 3 months ago, when they stopped, as the landlord has not provided essential services, or in this case, water, all winter.

### Analysis

In order for the applicant/landlord to succeed in this application, the applicant/landlord must show that the *Residential Tenancy Act* applies. In order to find the Act applies, I must be satisfied that the parties entered into a tenancy and that the parties had a landlord and tenant relationship.

Residential Tenancy Policy Guideline 27 states that the Residential Tenancy Branch does not have the authority to hear all disputes regarding every type of relationship between two or more parties. The jurisdiction conferred by the Legislation is over landlords, tenants and strata corporations.

I accept the testimony of the applicant that a tenancy agreement was never formed between the applicant and the respondents. For instance, there was no proof that the respondents ever paid rent or a security deposit. I was not provided any evidence that a consensus was ever reached between the parties that a tenancy agreement was contemplated or agreed upon.

I therefore find that the applicant/landlord and respondent/tenants had not entered into a landlord-tenant relationship and I further find that the applicant did not allow occupancy of the residential property, that they have taken steps to have the respondents removed from the residential property, having never received monthly rent or a security deposit.

As a result, I find upon a balance of probabilities that a tenancy agreement did not exist between the parties and I therefore decline to find jurisdiction to resolve this dispute.

The parties are at liberty to seek the appropriate legal remedy to this dispute.

### Conclusion

I do not find the *Residential Tenancy Act* applies to this dispute and I have declined jurisdiction.

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 14, 2014

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Residential Tenancy Branch

