



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Realty Executives Vantage  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, LRE, MT, O, FF, MNDC, MNSD, OPR

### Introduction

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

The landlord's application is a request for an Order of Possession based on a notice to end tenancy for nonpayment of rent, and a request for a Monetary Order for outstanding rent and recovery of the filing fee.

The tenant's application is request to cancel the Notice to end Tenancy that was given for nonpayment of rent, and a request to suspend or set conditions on the landlord's right to enter the rental unit.

A substantial amount of documentary 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

The issues are whether or not to uphold or cancel a Notice to end Tenancy, whether or not the landlord has established a monetary claim against the tenant, and whether to issue an Order restricting the landlord's right of entry to the rental unit.

## Background and Evidence

The landlord testified that:

- The tenant claims to have paid the June 2014 rent by money order; however either the money order was never received by our office, or went missing after arriving at our office.
- The tenant was advised that they did not have the money order and therefore she should stop payment on the order and issue a new money order.
- The tenant advised them that the bank told her that it would take 30 days to be able to put a stop payment on the money order and re-issue one.
- They subsequently checked with the bank and the tenant had put a stop payment on the money order and a new money order was re-issued.
- The tenant however paid the July 2014 rent with the new money order leaving the June 2014 rent still outstanding.
- The tenant refused to pay the June 2014 rent claiming that we still held the money order.
- The tenant was therefore issued with a 10 day Notice to end Tenancy and she has failed to comply with that notice.
- The tenant has also failed to pay any further rent, and therefore as of today's date there is three months' rent outstanding.

They are therefore requesting an Order of Possession for as soon as possible and a Monetary Order for the outstanding three months' rent.

The tenant testified that:

- She did pay the June 2014 rent with the money order, however the landlords are the ones who lost the money order.
- She has never put a stop payment on that money order, and therefore the landlords have the June 2014 rent.
- The money order she gave the landlords on July 9, 2014 was for the July 2014 rent, and therefore when the notice to end tenancy was given to her on July 10, 2014, there was no rent outstanding.
- The tenants advocate therefore argued that the notice to end tenancy should be canceled and the landlord's request for an Order of Possession dismissed.
- The tenants advocate also argued that the landlords should not be awarded any money, because the July 2014 and June 2014 rent have both been paid, and the landlord did not apply for the August 2014, or September 2014 rent on the application for dispute resolution.

### Analysis

It is my finding that the landlords have shown that the June 2014 rent has not been paid by the tenant.

The landlords have provided documentary evidence that shows that the money order provided by the tenant for the June 2014 rent was canceled and there's no evidence to show that it was ever replaced.

The tenants advocate argued that even if the money order was not replaced, it was paid by the landlord's agent and therefore it has been paid, however it's my finding that the landlord's agent is also defined as the landlord by the Residential Tenancy Act, and therefore the rent is not considered paid if an amount of money is transferred from one landlord to another without having been received from the tenant.

The tenants advocate has also argued that the notice to end tenancy that was issued on July 10, 2014 states that it is for rent that was due on July 1, 2014, and therefore since the receipt issued by the landlords stated it was for July 2014 rent, there was no July 2014 rent outstanding and therefore it's not a valid Notice to end Tenancy. It is my finding however that since the June 2014 rent was still outstanding when the Notice to end Tenancy was issued, it is still a valid Notice to end Tenancy as it does not specifically say that it was July 2014 rent that was outstanding, it simply states that it was an amount that was due on 1 July 2014, and since the June 2014 rent was still due at that time, it is a valid notice.

I therefore will not be canceling the Notice to end Tenancy and I allow the landlord's request for an Order of Possession based on the Notice to End Tenancy.

Further I also allow the landlords claim for outstanding rent right to the end of September 2014, because the dispute resolution hearing was not scheduled until today's date, and therefore there is now more rent outstanding than there was at the time of the application, and the tenant was well aware that rent was due to be paid for both the months of August 2014 and September 2014.

I also allow the landlord's request for recovery of the filing fee

Conclusion

The tenant's application is dismissed in full without leave to reapply.

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

I have also allowed the landlords full monetary claim of \$2300.00, and I therefore order pursuant to section 38 of the Residential Tenancy Act that the landlord may retain the full security deposit of \$375.00, and pursuant to section 67 of the Residential Tenancy Act I have issued a Monetary Order for the tenant to pay \$1925.00 to the landlords.

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: September 24, 2014

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Residential Tenancy Branch

