



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with cross applications. The tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent. The landlords applied for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and authorization to retain the security deposit. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

### Issue(s) to be Decided

1. Should the 10 Day Notice to End Tenancy for Unpaid Rent be upheld or cancelled?
2. Are the landlords entitled to an Order of Possession for unpaid rent?
3. Are the landlords entitled to a Monetary Order for unpaid rent?
4. Are the landlords authorized to retain the tenant's security deposit?

### Background and Evidence

The tenancy commenced October 1, 2014 and the tenant is required to pay rent of \$1,400.00 on the 1<sup>st</sup> day of every month. The tenant paid the security deposit of \$700.00 and rent for the months of October and November 2014. The tenant's rent cheques for December 2014 and January 2015 were returned for insufficient funds. On January 16, 2015 the landlords posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door indicating rent of \$2,800.00 was outstanding and a stated effective date of January 26, 2015. The tenant received the Notice on January 17, 2015 and filed to dispute the Notice but did not pay the outstanding rent. Nor, did the tenant pay any rent for February 2015.

In filing his Application the tenant stated that the rent for December 2014 and January 2015 had been paid; however, at the commencement of the hearing, the tenant stated he erred in making that claim and he acknowledged that the rent was outstanding.

During the hearing both parties indicated that they were agreeable to a vacate date of February 15, 2015. Both parties were in agreement that the landlords are entitled to recovery unpaid rent of \$2,800.00 by way of a Monetary Order and the landlords may retain the tenant's security deposit as compensation for the tenant's occupancy of the rental unit for the period of February 1 - 15, 2015.

Documentary evidence provided for my review included a copy of: the tenancy agreement; the 10 Day Notice; proof of service of the 10 Day Notice; and, the returned rent cheques.

### Analysis

Under the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement. Where a tenant does not pay rent the landlord is at liberty to issue a 10 Day Notice to End Tenancy for Unpaid Rent. When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution.

In this case, the tenant filed to dispute the 10 Day Notice; however, in acknowledging the rent was outstanding, and having been satisfied the landlords served the tenant with a valid 10 Day Notice, I found there to be no basis to cancel the Notice. Accordingly, the tenant's request to cancel the Notice is dismissed and the landlords' request for an Order of Possession is granted. Based upon the mutual agreement between the parties during the hearing, I provide the landlords with an Order of Possession effective February 15, 2015.

Based upon the undisputed evidence before me, I find the landlords entitled to recover unpaid rent for December 2014 and January 2015 in the amount claimed of \$2,800.00 and I further award the landlords recovery of the \$50.00 filing fee they paid for their application. Accordingly, the landlords are provided a Monetary Order in the total amount of \$2,850.00 to serve and enforce as necessary. Further, as the tenant shall remain in possession of the rental unit until February 15, 2015 and based upon the mutual agreement between the parties, I authorize the landlords to retain the tenant's security deposit as compensation for the tenant's use and occupancy of the rental unit for February 1 – 15, 2015.

Conclusion

The tenant's application has been dismissed.

The landlords have been provided an Order of Possession effective February 15, 2015.

The landlords have been authorized to retain the tenant's security deposit and the landlords have been provided a Monetary Order in the amount of \$2,850.00 to serve and enforce.

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: February 10, 2015

---

Residential Tenancy Branch

