



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            O, FF

### Introduction

This hearing was scheduled to deal with a landlord's application for an Order of Possession based upon a tenant's notice to end tenancy. 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.

It should be noted that from the outset of this hearing it was very evident that there was significant acrimony between the parties as evidenced by their repeated interruptions, speaking out of turn, shouting and making inflammatory comments to the other. The female landlord and the tenant were cautioned a number of times to conduct themselves appropriately during the hearing.

It was determined fairly early in the proceeding that the tenancy has ended and the landlords have regained possession of the rental unit. The parties provided consistent submissions that the tenant gave a written notice to end the tenancy to the landlords on April 27, 2015 with a stated effective date of May 31, 2015 and the tenant removed her personal possessions, except a television, from the rental unit and the keys to the rental unit were returned by way of a police escort on or about May 10 or 12, 2015. As possession of the rental unit was returned before the effective date of the tenant's notice to end tenancy I found the landlord's request for an Order of Possession to be moot as of the date of this hearing.

The tenant requested she be provided the opportunity to retrieve her television. The landlord stated that somebody would be at the property this evening to provide the tenant access to the television.

The landlords requested that I amend their Application to deal with unpaid rent. The landlord originally stated the tenant did not pay rent for May 2015 and then she changed her testimony to state rent was not paid for April 2015. The tenant stated that rent for April 2015 was paid and the tenant indicated there were reasons for leaving the rental unit early. I noted that the landlords had included a copy of a 10 Day Notice to End Tenancy for Unpaid Rent in their evidence package that was served upon the Branch. The 10 Day Notice was issued May 2, 2015 indicating rent of \$900.00 that was due on May 1, 2015 was not paid. The landlord

acknowledged that she had not served the tenant with any documentary evidence for this proceeding.

I informed the parties that I am bound to conduct a hearing that does not violate the principles of natural justice. The principles of natural justice provide that a respondent has the right to be notified of the claims against them and an opportunity to provide a response or defence, including evidence to support their position. I denied the landlords' request to amend the landlord's Application as I found to do so would violate the principles of natural justice considering the landlords had not put the tenant on notice that unpaid rent would be an issue to be dealt with at this hearing by serving her with an amended Application or serving her evidence that would indicate the landlord intended to make such a claim by way of this proceeding. Rather, the only issue clearly indicated to the tenant that would be dealt with at this proceeding is an Order of Possession for the landlord.

The landlord objected to my decision to deny the request for amendment, stating Information Officers with the Branch told her I would deal with unpaid rent at the hearing. It was not necessary for me to determine whether the landlord received incomplete or inaccurate information from Branch staff as erroneous information from Branch staff, if it was given, is not a basis for me to violate the tenant's right to a fair hearing. The landlords were informed of their right to file another Application to seek compensation for unpaid rent.

Both parties were encouraged to determine their respective rights and obligations under the Act by contacting the Branch via telephone, email or in-person at the Branch and proceed accordingly. Information is also available from the Branch website. The address for the Branch website is listed on the last page of this decision.

In concluding, the landlords' application for an Order of Possession was dismissed as possession has already been returned.

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: May 27, 2015

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Residential Tenancy Branch

