



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPB, CNR, CNC, MNSD, MNDC, MNR, LRE, OLC, FF

### Introduction

This hearing dealt with applications by both parties. The tenant applied for an order setting aside notices to end this tenancy, a monetary order and orders compelling the landlords to comply with the Act and setting limits on their right to enter the rental unit. The landlords applied for an order of possession and a monetary order. Both parties participated in the conference call hearing with KK representing both landlords.

At the hearing, KK asked to amend her claim to include a claim for lost income for the period from September 15 – October 15. I allowed the amendment as the tenant should reasonably have known that the landlord could not re-rent the unit while he was still living therein.

### Issues to be Decided

Should the notices to end tenancy be set aside?

Is the tenant entitled to a monetary order as claimed?

Is the tenant entitled to orders compelling the landlords to comply with the Act and setting limits on their right to enter the rental unit?

Are the landlords entitled to a monetary order as claimed?

### Background and Evidence

The facts are not in dispute. The tenancy began on April 10, 2015 and rent in the amount of \$820.00 is payable in advance on the 15<sup>th</sup> day of each month. The tenant is also responsible to pay for 25% of hydro bills. At the outset of the tenancy, the landlords collected a \$400.00 security deposit from the tenant and also collected an additional \$400.00 which they characterized as rent for the last 2 weeks of the tenancy.

On or about July 15, the landlords served on the tenant a 1 month notice to end tenancy for cause (the "Cause Notice"). The tenant failed to pay rent on July 15 and on July 17, the landlords served upon him a 10 day notice to end tenancy for unpaid rent (the "Rent Notice"). The tenant has not paid any rent or utilities since the 2 notices were served and on September 1, the landlord cut off basic cable and internet services which were included in his rent pursuant to the tenancy agreement.

### Analysis

The tenant claimed that the landlords had illegally entered his suite during the tenancy and that they had wrongfully accused him of having a dog. He claimed that because the landlords did not want him living in the unit anymore, he had withheld his rent. Section 26(1) of the Act requires tenants to pay their rent when it is due under the tenancy agreement regardless of whether the landlords have complied with their obligations. I find that the tenant had no right to withhold his rent. However, because the landlords illegally required the tenant to pay an additional \$400.00 above and beyond what they were permitted to collect as a security deposit, the tenant was permitted to withhold that amount from his rent and should have paid the landlords the remaining \$420.00. I find that the landlords have established grounds to end this tenancy. I dismiss the tenant's claim for an order setting aside the Rent Notice and I grant the landlords an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed in the Supreme Court and enforced as an order of that Court.

I dismiss the tenant's claim for a monetary order for \$400.00 as this has been applied to the rent owing.

As I have determined that the Rent Notice is effective to end the tenancy, it is unnecessary to address the Cause Notice.

As the tenancy is ending, it is unnecessary to address the tenant's claim for orders compelling the landlords to comply with the Act and setting limits on their right to enter the rental unit and I dismiss those claims.

I note that at the hearing, the tenant argued that he should not be responsible for the full amount of his rent because the landlord discontinued his cable and internet service. The tenant made no formal claim for compensation for the loss of those services and therefore I cannot consider that verbal claim.

As the tenant has not been successful in any part of his claim, I find he should bear the cost of his own filing fee.

I find that the tenant was obligated to pay \$420.00 in rent (after subtracting \$400.00 from the amount overpaid to the landlord at the outset of the tenancy) for the period from July 15-August 14 and that he failed to pay this amount. I further find that because the tenant neither paid rent nor vacated the unit, the landlord suffered a loss of income for the 2 following rental periods, August 15 – September 14 and September 15 – October 14. I find that the tenant must be held responsible for these losses and I award the landlord \$2,060.00. I further find that the tenant failed to pay the \$14.86 in hydro owing for the rental period and I award the landlords \$14.86.

As the landlords have been successful in their claim, I find they should recover the \$50.00 filing fee paid to bring their application and I award them \$50.00. I dismiss the landlord's claim for the cost of another filing fee paid to bring an online application as the tenant should not be responsible for the landlords' choice to file a duplicate application.

The landlords have been awarded a total of \$2,124.86. I order the landlords to retain the \$400.00 security deposit in partial satisfaction of the claim and I grant them a monetary order under section 67 for the balance of \$1,724.86. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The tenant's claim is dismissed. The landlords are granted an order of possession and a monetary order for \$1,724.86 and will retain the security deposit.

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: October 02, 2015

---

Residential Tenancy Branch

