



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

For the landlord: OPR MNR MNSD FF

For the tenants: MT CNR MNR MNDC RPP OPT AAT RR O

### Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the *Residential Tenancy Act* (the “Act”).

The landlord applied for an order of possession for unpaid rent or utilities, for a monetary order unpaid rent or utilities, for authorization to keep all or part of the tenants’ security deposit, and to recover the cost of the filing fee.

The tenants applied for more time to make an application to cancel a notice to end tenancy, to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”), for an order directing the landlord to allow access to the unit or site, for a monetary order for compensation for loss or other money owed, for compensation for the cost of emergency repairs already made, for the return of the security deposit, for an order of possession for the rental unit, for an order directing the landlord to return the tenants’ personal property, for a reduction of rent for repairs, services or facilities agreed upon but not provided and to recover the cost of the filing fee.

The landlord and an agent for the landlord (the “agent”) attended the teleconference promptly at 9:30 a.m., at the start of the hearing. The tenant did not attend the hearing until after 17 minutes and after she was advised that her application had been dismissed after waiting 10 minutes, the tenant immediately disconnected from the hearing. As the tenants did not attend the hearing at the scheduled start of the hearing as required by Rule 7.1 of the Rules of Procedure to present the merits of their application, the tenants’ application was **dismissed, without leave to reapply**, after the ten minute waiting period had elapsed. The hearing continued with consideration of the landlord’s application only.

The hearing process was explained to the landlord, and the landlord was given an opportunity to ask questions about the hearing process. Thereafter the landlord gave affirmed testimony, was provided the opportunity to present their relevant evidence orally and in documentary form prior to the hearing, and make submissions to me. The evidence relevant to the issues and findings in this matter are described in this Decision.

The landlord testified that the tenants were served with the Notice of Hearing, Application for Dispute Resolution and documentary evidence by registered mail at the rental unit address on October 25, 2015, and that the tenants continued to occupy the rental unit until November 1, 2015 and eventually abandoned the rental unit as of November 9, 2015. A registered mail tracking number was submitted in evidence which supports the testimony of the landlord. Given the above, I find that the tenant were deemed sufficiently served under the *Act* as of October 30, 2015, pursuant to section 90 of the *Act* which states that documents served by registered mail are deemed served five days after they are mailed.

#### Preliminary and Procedural Matters

The landlord testified that he deemed that the tenants abandoned the rental unit as of November 9, 2015 as they were moving out of the rental unit between November 1 and 3, 2015 and then did not return to the rental unit after November 3, 2015. The landlord stated that the tenants left junk in the rental unit. As a result of the above, the landlord confirmed that he no longer required an order of possession due to the tenants abandoning the rental unit.

The landlord stated under oath that the tenants never paid a security deposit as the cheque they provided as a security deposit did not have sufficient funds and as a result, the landlord does not have a security deposit for the tenants. As a result, the landlord is not seeking to retain a security deposit that he does not have.

#### Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

### Background and Evidence

The landlord stated that a month to month tenancy began on August 1, 2015. Monthly rent of \$1,200 was due on the first day of each month. The landlord stated that the tenants failed to pay \$1,200 for September 2015 rent, and then failed to pay \$1,200 for October 2015 rent. The landlord testified that the tenants began to vacate the rental unit between November 1, 2015 and November 3, 2015. The landlord deemed the rental unit abandoned on November 9, 2015.

The landlord testified that he served the tenants by hand with a 10 Day Notice on October 9, 2015 that indicated that \$2,400 in unpaid rent was owed as of October 1, 2015. The effective date of the 10 Day Notice as indicated by the landlord was October 27, 2015.

The landlord is seeking a monetary order for \$2,400 in unpaid rent, plus the cost of the filing fee.

### Analysis

Based on the undisputed testimony of the landlord and the documentary evidence before me, and on the balance of probabilities, I find the following.

**Monetary Order** – I accept the undisputed testimony of the landlord that the tenants have failed to pay \$1,200 for September and \$1,200 for October 2015 rent. Section 26 of the *Act* requires that tenants pay rent on the date that it is due in accordance with tenancy. I find the tenants breached section 26 of the *Act* by failing to pay rent as required for the months of September and October of 2015 as claimed. As a result, I find the landlord has met the burden of proof and is entitled to **\$2,400** for unpaid rent as claimed.

As the landlord's application had merit, I grant the landlord the recovery of the **\$50** filing fee. I find the landlord's total monetary claim established is **\$2,450** comprised of \$2,400 in unpaid rent, plus the recovery of the \$50 filing fee.

### Conclusion

The tenants' application is dismissed in full, without leave to reapply.

The landlord's application is successful.

The landlord has established a total monetary claim of \$2,450. The landlord has been granted a monetary order pursuant to section 67 of the *Act*, in the amount of \$2,450. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: December 11, 2015

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Residential Tenancy Branch

