



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for an Order of Possession for cause; for a monetary order for unpaid rent or utilities; for an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenants for the cost of the application.

Both landlords attended the hearing and each gave affirmed testimony, however no one for the tenants attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participants who joined the call were the landlords. One of the landlords testified that the tenants were served on December 17, 2015 by registered mail, and the landlords have provided copies of 2 Registered Domestic Customer Receipts stamped by Canada Post bearing the date of December 17, 2015, addressed to each of the tenants, and I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

- Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession for cause?
- Have the landlords established a monetary claim as against the tenants for unpaid rent?
- Should the landlords be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The first landlord testified that this 1 year fixed term tenancy began on November 1, 2015 and the tenants still reside in the rental unit. Rent in the amount of \$1,000.00 per month is payable in advance on the 1<sup>st</sup> day of each month. Prior to the commencement

of the tenancy the landlords collected a security deposit from the tenants in the amount of \$500.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is an apartment in a 4-story apartment building, and a copy of the tenancy agreement has been provided.

The landlord further testified that the tenants were both individually served on November 12, 2015 with a copy of a 1 Month Notice to End Tenancy for Cause by personally handing them to the tenants. A copy of the notice has been provided for this hearing and it is dated November 12, 2015 and contains an effective date of vacancy of December 12, 2015. The reason for issuing the notice states: Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. The tenants were served with the notice as a result of other tenants within the complex continually calling police due to disturbances. The landlords have not been served with an application for dispute resolution by either tenant disputing the notice, and the landlords seek an Order of Possession.

The landlord also testified that the tenants have not paid any rent for the months of December, 2015 or January, 2016. Copies of cheques for rent payments for those months have been provided and both are marked returned for insufficient funds. The landlords have not attempted to cash the rent cheque for February. The landlords claim unpaid rent for December and January as well as \$7.00 for each of the 2 returned cheques, being the amount charged by the landlords' financial institution. Copies of the debit memos have also been provided.

The second landlord testified that due to conflicts within the complex, the landlords seek to receive the Order of Possession on a rush basis. A lot of other tenants are inconvenienced.

### Analysis

The *Residential Tenancy Act* states that once a tenant is served with a 1 Month Notice to End Tenancy for Cause, the tenant must dispute the notice by filing an application for dispute resolution within 10 days of service. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, I have reviewed the notice and I find that it is in the approved form and contains information required by the *Act*. The landlord testified that the tenants were each personally served with a copy of the notice on November 12, 2015, and I accept that testimony. The landlord also testified that the tenants have not served the landlords with an application for dispute resolution disputing the notice, and I have no such application before me. Therefore, I find that the tenants are conclusively presumed to have accepted the end of

the tenancy and the landlords are entitled under the *Act* to an Order of Possession on 2 days notice to the tenants.

I have also reviewed the evidentiary material of the landlords, and I am satisfied that the rent cheques for December, 2015 and January, 2016 have both been dishonoured by the tenants' financial institution, and the landlords have been charged a \$7.00 fee for each of those returned items. Therefore, I find that the landlords have established a monetary claim as against the tenants in the amount of \$2,014.00.

Since the landlords have been successful with the application, the landlords are also entitled to recovery of the \$50.00 filing fee.

I order the landlords to keep the \$500.00 security deposit in partial satisfaction of the claim, and I grant a monetary order in favour of the landlords for the difference in the amount of \$1,564.00 ( $\$2,000.00 + \$14.00 + \$50.00 = \$2,064.00 - \$500.00 = \$1,564.00$ ).

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlords on 2 days notice to the tenants.

I further order the landlords to keep the \$500.00 security deposit and I grant a monetary order in favour of the landlords as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,564.00.

These orders are final and binding and may be enforced.

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 03, 2016

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Residential Tenancy Branch