



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

OPR  
MT, CNR, FF

### Introduction

This hearing was convened by way of conference call concerning applications made by the landlords and by the tenants. The landlords have applied for an Order of Possession for unpaid rent or utilities. The tenants have applied for more time than prescribed to dispute a notice to end the tenancy, for an order cancelling a notice to end the tenancy for unpaid rent or utilities, and to recover the filing fee from the landlords for the cost of the application.

One of the landlords attended the hearing and also represented the other landlord. However, despite making an application for dispute resolution, 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 participant who joined the call was the landlord. Therefore, I dismiss the tenants' application without leave to reapply.

The landlord gave affirmed testimony and evidentiary material has been provided, all of which has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on October 1, 2014, expired on October 1, 2015, and although the tenancy agreement specifies that the tenants must move out of the rental unit at the end of the fixed term, the tenancy has continued on a month-to-month basis. The tenants still reside in the rental unit. Rent in the amount of \$800.00 per month is payable on the 6<sup>th</sup> day of each month, and there are currently no rental arrears. A copy of the tenancy agreement has been provided which requires the

tenants to pay a security deposit in the amount of \$400.00, but the tenants have not paid a security deposit or a pet damage deposit to the landlords.

The landlord further testified that the tenants are repeatedly late paying rent. On February 5, 2016 the landlords served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by registered mail. A copy of the notice has been provided as well as a copy of the Canada Post cash register receipt bearing that date, and a copy of a Registered Domestic Customer Receipt addressed to the tenants. The notice is dated February 5, 2016 and contains an effective date of vacancy of February 28, 2016 for unpaid rent in the amount of \$1,200.00 that was due on January 1, 2016 and unpaid utilities in the amount of \$820.00 following a written demand on January 20, 2016.

### Analysis

The *Residential Tenancy Act* states:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
  - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have reviewed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 5, 2016 and I find that it is in the approved form and contains information required by the *Act*. Having dismissed the tenants' application, I hereby grant an Order of Possession in favour of the landlords. Since the effective date of vacancy has passed, I grant the order on 2 days notice to the tenants.

Since the landlords have been successful with the application, the landlords are also entitled to recovery of the \$100.00 filing fee, and I hereby grant a monetary order in that amount as against the tenants.

### Conclusion

For the reasons set out above, the tenants' application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an Order of Possession in favour of the landlords on 2 days notice to the tenants.

I further 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 \$100.00.

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: April 21, 2016

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Residential Tenancy Branch