



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNR, OPR, OPC, MNR, MNSD

### Introduction

This hearing was convened in response to applications by the landlord and the tenant).

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenant filed two applications and is seeking orders as follows:

1. To can a 1 Month Notice to End Tenancy for Cause;
2. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent.

Both parties appeared, gave testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

### Preliminary matter

In this case, both parties had files scheduled for today's date. The tenant also had a subsequent file that was schedule to be heard on June 10, 2016 at 9:00am. As the tenant's file scheduled for June 10, 2016, is specifically related to the landlord's application scheduled to be heard today, I find it appropriate to join all files and have them heard together at today's date. Therefore, the hearing date of June 10, 2016 at 9:00am is cancelled.

### Issues to be Decided

Should either of the notices to end tenancy be cancelled?

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to retain all or party of the security deposit?

### Background and Evidence

The parties agreed that the tenancy was served with a notice to end tenancy for non-payment of rent, issued on May 4, 2016. The parties agreed the outstanding rent of \$250.00 for May 2016, was not paid. The parties agreed that the tenant also owes further rent for June 2016, in the amount of \$250.00. The total amount of unpaid rent as of today's date is the amount of \$500.00.

The tenant testified that they disputed the notice as they believe they should be entitled to compensation for cleaning cost and garbage removal.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

Under the legislation the tenant may dispute the Notice for specific reasons, such as they have proof that their rent was paid or that the tenant had the right under the Act to deduct all or a portion from their rent, such as an order from an Arbitrator.

Although the tenant filed an application for dispute resolution within the time limit permitted under the Act, I find the tenant's application must be dismissed as the tenant admitted rent was not paid within 5 days after receiving the 10 day notice because they believed they are entitled to compensation for cleaning.

However, the tenant did not have the authority under the Act to deduct any portion from the rent. At no time does the tenant have the right to simply withhold rent because they feel they are entitled to do so. Therefore, I dismiss the tenant's application to cancel the notice without leave to reapply.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act. During the hearing the landlord indicated that they are agreeable to extend the effective date of the notice to June 30, 2016. Therefore, I find the landlord is entitled to

an order of possession at **1:00 pm on June 30, 2016**. A copy of this order must be served on the tenant.

This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

In this case, the evidence of both parties was current rent arrears for May 2016, and June 2016, are in the amount of \$500.00. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$500.00**.

I find that the landlord has established a total monetary claim of **\$600.00**, comprised of unpaid rent, and the \$100.00 fee paid by the landlord for this application.

I order that the landlord retain the above amount of from the tenant's security deposit of \$750.00 in full satisfaction of the claim.

As the tenancy has ended based on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, I find it not necessary to consider the merits of the 1 Month Notice to End Tenancy for Cause.

#### Conclusion

The tenant failed to pay rent. The tenant's applications are dismissed.

The landlord is granted an order of possession, and may keep a portion of the security in full satisfaction of the monetary claim.

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: June 06, 2016

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Residential Tenancy Branch