



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MNR, OPR, MNSD, FF

### Introduction

This decision deals with two applications for dispute resolution, one brought by the tenants and one brought by the landlords. Both files were heard together.

The landlord's application is a request for an Order of Possession based on the notice to end tenancy for nonpayment of rent, a request for a Monetary Order for \$4650.00, and a request to retain the full security deposit towards the claim.

The tenant's application is a request to cancel a Notice to End Tenancy that was given for nonpayment of rent.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

### Issue(s) to be Decided

The issues are:

- Whether to cancel or uphold a Notice to End Tenancy that was given for nonpayment of rent.
- Whether the landlord has established the right to an Order of Possession.
- Whether the landlord has established a monetary claim against the tenants, and if so in what amount.

### Background and Evidence

The landlord testified that the tenants June 2016 rent cheque was not honored by the bank, and therefore, on June 7, 2016, he served the tenants with a 10 day notice to end tenancy for nonpayment of rent.

The landlord further testified that since the date the tenants have paid no further rent, and therefore he is requesting an Order of Possession based on that notice, and a Monetary Order as follows:

June 2016 rent outstanding	\$1550.00
July 2016 rent outstanding	\$1550.00
Possible August 2016 lost rental revenue	\$1550.00
Filing fee	\$100.00
Total	\$4750.00

The tenants testified that they were not aware that their June 2016 rent cheque had not been honored by the bank and that they would have to check with the bank to see if this is true.

The tenants further testified that they have not paid any rent for the month of July 2016 because of this ongoing dispute.

The tenants stated that they believe the Notice to End Tenancy should be canceled since they were unaware that their June 2016 rent cheque had not been honored by the bank.

### Analysis

It is my finding that the landlord has shown that the tenants June 2016 rent cheque was not honored by the bank due to insufficient funds, and I therefore allow the landlords claim for that outstanding rent.

Further, the tenants have admitted that they have not paid any rent for the month of July 2016, and I therefore also allow the landlords claim for that outstanding rent.

I will not allow the landlords claim for rent for the month of August 2016 however, because this claim is premature, as we do not know whether the August 2016 rental revenue will be lost.

I will allow the landlords request for an Order of Possession however, because the landlord has served a valid 10 day Notice to End Tenancy, and the tenants have not paid the outstanding rent or complied with the notice.

I also allow the landlords request for recovery of the \$100.00 filing fee.

I will not allow the tenants request to cancel the Notice to End Tenancy as they have not provided any evidence to show that the June 2016 rent has been paid.

### Conclusion

#### Tenant's application

The tenant's application is dismissed in full without leave to reapply.

#### Landlord's application

I have allowed \$3200.00 of the landlords claim and therefore pursuant to section 38 of the Residential Tenancy Act I order that the landlord may retain the full security/pet deposit totaling \$1550.00, and pursuant to section 67 of the Residential Tenancy Act I have issued a Monetary Order in the amount of \$1650.00.

The landlords claim for August 2015 lost revenue is dismissed with leave to reapply.

Pursuant to sections 46 and 55 of the Residential Tenancy Act I have issued an Order of Possession to the landlord that is enforceable two days after service on the tenants.

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: July 19, 2016

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Residential Tenancy Branch