



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPC, MNR, FF

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent and for cause, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants, "tenant AS" and "tenant SW" did not attend this hearing, which lasted approximately 37 minutes. The two landlords, landlord SP ("landlord") and "landlord HP" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlords confirmed that they served the tenants with the landlords' application for dispute resolution hearing package on September 9, 2016 by way of posting to the rental unit door. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were deemed served with the landlords' Application on September 12, 2016, three days after its posting.

The landlord confirmed that tenant SW was personally served with the landlords' application amendment on October 6, 2016. Accordingly, I find that tenant AS was not served with the landlords' amendment because it was not served separately upon her as noted on page 2 of the amendment form and as required by section 89 of the *Act*. I find that tenant SW was served with the landlords' amendment on October 6, 2016.

### Preliminary Issue – Particulars of Landlord's Application

Throughout the entire hearing, the landlord was unprepared to present evidence. When initially asked about the service dates for the landlords' application, the landlord did not understand the question and I was required to repeat it multiple times. When asked to confirm the details of her notices to end tenancy, the landlord became upset, saying she was not required to, and did not have all of her paperwork in front of her during the hearing. I provided the landlord with ample time during the hearing to search through her paperwork and confirm information, as well as speak to landlord HP about the matter. The landlord was still unprepared after 37 minutes of hearing time to confirm the correct information and present her evidence.

The landlords sought an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice") as well as a 1 Month Notice to End Tenancy for Cause ("1 Month Notice"). When asked about the details of the 1 Month Notice, the landlord said that she only had a photograph of page 1 of the notice, not page 2. The landlord said that she submitted this notice to the Residential Tenancy Branch ("RTB"), but I did not have a copy on file. The landlord claimed that no one at the RTB told her to keep a photocopy of the notice, so she did not do so. When I pointed the landlord to the provision on page 2 of the landlords' application which clearly states that a copy of any notices to end tenancy had to be provided to the RTB, she claimed that she was told otherwise by the RTB information officers. She also maintained that information officers at the RTB told her she did not need any paperwork for this hearing, she could just show up and not have to present any evidence or confirm any information on her notices.

Rule 3.10 of the RTB *Rules of Procedure* requires printable documents to be submitted as photocopies, not as digital evidence such as photographs. Rule 2.5 of the RTB *Rules of Procedure* states that landlords must submit copies of any notices to end tenancy to the RTB, if they seek an order of possession, and that it must be done at the same time as the application is submitted or within three business days of filing, if the application is filed online. A full copy of all pages of the notices must be submitted. The landlord said that she submitted a copy of a 1 Month Notice and a 10 Day Notice on October 6, 2016, more than a month after the landlords' application was filed on September 2, 2016 (in person, not online). The landlord confirmed that the 10 Day Notice was dated October 7, 2016, while my copy was dated October 15, 2016.

The landlords also sought a monetary order of \$205.00. They initially amended their application to apply for October 2016 unpaid rent of \$675.00 and then sought to amend it at the hearing to \$775.00, saying they mistakenly sought the incorrect rent amount.

Pursuant to section 59(2)(b) of the *Act*, an application must include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings. Rule 7.4 of the RTB *Rules of Procedure* states that evidence must be presented by the party who submitted it. I find that the landlords were not prepared to present their evidence at the hearing or the information in their notices to end tenancy. I find that the landlords were unable to provide clear and consistent testimony about their application. I provided the landlords with ample time during this hearing, in order to locate their evidence and provide testimony about it but they failed to do so.

Accordingly, I dismiss the landlords' application for an order of possession for unpaid rent and for cause, as well as the monetary order for unpaid rent, with leave to reapply. The landlords' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

#### Preliminary Issue – Inappropriate Behaviour by the Landlord during the Hearing

Rule 6.10 of the RTB *Rules of Procedure* states the following:

##### *Interruptions and inappropriate behaviour at the dispute resolution hearing*

*Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

At the hearing, I advised the landlords that I was dismissing their entire application with leave to reapply, except for the recovery of the filing fee. I notified the landlords that they would be required to file a new application if they wished to pursue orders against the tenants. I also told the landlords that they would be required to provide testimony about their documents and have clear evidence at the next hearing.

Throughout this hearing and particularly when giving my oral reasons, the landlord became increasingly upset and repeatedly interrupted me. While issuing my reasons, the landlord intentionally disconnected from the conference at 11:37 a.m. The landlord did not call back so I ended the conference at 11:37 a.m.

I caution the landlord not to engage in the same behaviour at any future hearings at the RTB, as this behaviour will not be tolerated and she may be excluded from future hearings. In that case, a decision will be made in the absence of the landlord.

### Conclusion

The landlords' application for an order of possession for unpaid rent and for cause, as well as a monetary order for unpaid rent, is dismissed with leave to reapply.

The landlords' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

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: October 27, 2016

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Residential Tenancy Branch