



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      CNR, CNC, MT, OPR, OPC, OPB MNR, MNSD, MNDC, FF

### Introduction

In the first application the tenants seek to cancel a ten day Notice to End Tenancy for unpaid rent dated and received October 2, 2016. They also seek to cancel one month Notice to End Tenancy for repeated late payment of rent also dated and received October 2. They also seek more time to apply to cancel the Notices.

In the second application the landlords seek an order of possession pursuant to either Notice and pursuant to a breach of an agreement. They seek October rent, though by the time of hearing that money had been paid. They seek the cost of replacing a dead bolt lock on the rental unit door and various out of pocket expenses.

At hearing it became apparent that the tenant Mr. B.L., named in the tenancy agreement as B.L. was named incorrectly, perhaps by himself. His lawful name is B.H., the name used in the tenants' application, and so the style of cause has been amended accordingly.

All parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Has either Notice resulted in the ending of this tenancy? Are the landlords entitled to compensation for a lock replacement or out of pocket expenses?

### Background and Evidence

The rental unit is a one bedroom building located on a property also containing a house with two rental units in it.

The tenancy started December 9, 2015 for a fixed term to December 31, 2016 and then month to month. The monthly rent is \$800.00. The landlords took an \$800.00 security deposit at the start of the tenancy.

The landlord Mr. W.T. testifies that the tenants have been late paying rent for the months of May, July, August and October 2016. He provides documentary evidence to demonstrate that the May rent was not paid in full until May 16, that the July rent was not paid in full until August 1, that the August rent was not paid in full until September 1 and that the October rent was not paid in full until October 11.

He testifies that the tenants were served with the ten day Notice and did not pay the amount demanded in it until October 11, when they paid \$400.00 and exercised their right under s. 19(2) of the *Residential Tenancy Act* (the "Act") to offset their \$400.00 overpayment of the security deposit (limited by the Act to no more than an amount equivalent to one-half month's rent) against that rent.

Mr. W.T. says that the tenant's changed the deadbolt lock on the front door to the rental unit. Ms. S.W. says she has checked prices and to replace the original lock will cost \$50.00 plus \$150.00 for installation.

The landlords also testify that the tenant Mr. B.H. did not put his real name to the tenancy agreement and that if he had they would have discovered that he had an extensive criminal record.

The tenant Mr. B.H. testifies that the landlords did no criminal record check when the tenancy agreement was struck and that it was not his fault that the agreement did not use his proper legal name.

He says that the landlords accepted rent after the ten day Notice and so the tenancy as been reinstated.

He complains the landlords cut his power and that is why he changed the door lock.

### Analysis

Even if time to apply to cancel the one month Notice is granted, I find that the Notice has resulted in the ending of this tenancy on November 30, 2016. The evidence satisfies me that the tenants have been late with rent payments for all four months claimed by the landlords.

Residential Tenancy Policy Guideline 38, "Repeated Late Payment of Rent" confirms that three late payments will justify the conclusion that rent has been "repeatedly late" and that is the case here.

In any event, I find that though the tenants ultimately paid the amount of rent owing for October, it was not paid within the five day period allowed by the ten day Notice and that it was accepted by the landlords for occupation rent only. There was no agreement that it was to be accepted as rent and thus reinstating the tenancy. The ten day Notice was also a valid Notice and resulted in the ending of the tenancy.

Regarding locks, a tenant is not entitled to change the lock on a door to the premises except with the landlord's consent or an arbitrator's order permitting it. To do so without the landlord's knowledge is a serious matter.

The tenant Mr. B. H. says he can change the lock back if required. In my view the landlords are entitled to attend to their own lock change and the tenants are responsible for the reasonable cost to do so. The only evidence is that it will cost \$50.00 for a new lock and \$150.00 to have it installed. I award the landlords \$200.00.

I dismiss the landlords' claim for out of pocket expenses in preparing for this hearing. My jurisdiction in regard to costs and disbursements only extends to recover of the filing fee.

### Conclusion

This tenant ended November 30, 2016 and the landlords will have an order of possession.

The landlords are entitled to a monetary award of \$200.00 plus recovery of the \$100.00 filing fee. I authorize the landlords to retain the amount of \$300.00 from the security deposit they hold, in full satisfaction of the award.

This decision was given orally at hearing and 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: December 05, 2016

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Residential Tenancy Branch