



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR MNDC ERP LRE RR FF

### Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenants on November 7, 2016. The Tenants filed seeking to cancel a 10 Day Notice to end tenancy for unpaid rent; a \$624.16 Monetary Order; and various other orders against the Landlord.

The hearing was conducted via teleconference and was attended by the Landlord and her two Agents. No one was in attendance for the Tenants despite this hearing being convened to hear matters pertaining to the Tenants' application.

### Issue(s) to be Decided

Should the Tenant's application be dismissed with or without leave to reapply?

### Background and Evidence

No additional evidence was provided in support of the Tenants' application as no one appeared at the teleconference hearing on behalf of the Tenant.

The Landlord's Agents submitted evidence that the Tenants entered into a fixed term written tenancy agreement which indicated the female Tenant had a different last name, as included in the style of cause of this Decision, pursuant to section 64(3)(c) of the Act.

The tenancy commenced on August 30, 2016 and was set to expire on March 31, 2017. Rent of \$2,850.00 was payable on the first of each month. On August 29, 2016 the Tenants paid \$1,425.00 as the security deposit.

When the Tenants failed to pay their November 1, 2016 rent the Landlord issued the Tenants a 10 Day Notice to end tenancy for unpaid rent. That Notice was posted to the

Tenants' door on November 2, 2016 and listed an effective date of November 15, 2016. The Notice was submitted into evidence by the Tenants.

### Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing.

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the hearing** The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of the applicant Tenants, the telephone line remained open while the phone system was monitored for eleven minutes and no one on behalf of the applicant Tenants called into the hearing during this time. Accordingly, in the absence of any oral submissions from the applicant Tenants, I ordered the Tenants' application dismissed in its entirety, without liberty to reapply.

Section 55(1) of the *Act* stipulates that 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.

Section 62 (2) of the *Act* stipulates that the director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this *Act*.

After careful consideration of the foregoing; documentary evidence; and on a balance of probabilities I find the 10 Day Notice to end tenancy was issued and served upon the Tenants in a manner that complied with the *Act*. Accordingly, I granted the Landlord an Order of Possession effective **Two (2) Days after service upon the Tenants**, pursuant to section 55(1) of the *Act*. In the event that the Tenants do not comply with this Order it may be filed with the Supreme Court and enforced as an Order of that Court.

### Conclusion

The Tenants' application was dismissed without leave to reapply. The Landlord was granted an Order of Possession.

This decision is final, legally binding, 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 21, 2016

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Residential Tenancy Branch