



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, CNR, OLC, LRE, MT

### Introduction

In the first application the landlord seeks an order of possession pursuant to a ten day Notice to End Tenancy for unpaid rent and utilities received by the tenants on November 5, 2016.

In the second application the tenants seek to cancel that Notice, for an extension of time to do so and for orders that the landlord comply with the law or tenancy agreement and restricting the landlord's right of entry.

Both 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

Was the ten day Notice a lawful Notice ending the tenancy? Has the landlord given cause warranting a restriction on his right of entry or a compliance order?

### Background and Evidence

The rental unit is a two bedroom condominium apartment in an apartment building.

The landlord says there is no written tenancy agreement. The attending tenant says there is. Neither side presented a copy of any written agreement.

The parties agree the tenancy started April 1, 2016 and that the rent is \$1200.00 per month due on the first of each month. They agree the landlord holds a \$600.00 security deposit.

The landlord says the tenants did not pay the \$1200.00 November rent. He says that since the start of the tenancy the tenants paid rent by e-transfer.

He says the tenants are responsible for 100% of the Hydro for the rental unit. He received a \$43.94 Hydro bill in October and gave it by email to the tenants for payment on October 24. It had not been paid by the November 5 Notice date.

The attending tenant says he received a Hydro bill in November.

The tenant says that he and his co-tenant paid the November rent by cash on October 25 but did not get back a receipt from the landlord.

He says that on November 11 the landlord tried to break in.

He says the stove does not work

### Analysis

As stated at hearing, I decline to deal with the tenant's application for a compliance order or an order restricting the landlord's right of entry. The tenants filed no material and the only particulars of the grounds for the two claims are found in the tenant's application, where it states "treating us unfairly." That is far below the level of detail necessary for the respondent landlord to discern the nature of the tenants' complaints and to prepare to defend himself against them.

I dismiss these two items of the tenants' claim. As it has been determined below that this tenancy has ended, I decline to grant leave for the tenants' to re-apply regarding these two claims.

The landlord says the November rent was not paid; the attending tenant says it was. From the limited nature of this hearing process I am unable to assess credibility to an extent permitting me to prefer one's testimony over that of the other's.

The burden of proof of payment of a debt falls to the debtor; the tenants in this case. They have failed to satisfy that burden. I find that the November rent of \$1200.00 was not paid and was a proper ground for the ten day Notice.

The attending tenant's only defence to the claim for \$43.94 in Hydro costs is that he received a demand for that amount in November, after this Notice. That evidence does not counter the landlord's testimony that he sent a bill for the October Hydro to the tenants October 24 and it has not been paid. I conclude that the landlord's claim for unpaid utilities was a proper demand in the ten day Notice.

I find that the ten day Notice was a valid Notice. The tenants did not pay the amount demanded nor successfully challenge the Notice and, by operation of s. 46 of the *Residential Tenancy Act*, has resulted in this tenancy coming to an end on November 19, 2016.

The landlord will have an order of possession.

### Conclusion

The landlord's claim is allowed. The tenants' claim is dismissed.

Nether side claims recover of a filing fee.

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: December 28, 2016

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Residential Tenancy Branch