



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

OPR, MNR

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities and a monetary Order for unpaid rent or utilities.

The Agent for the Landlord stated that on January 16, 2017 the Application for Dispute Resolution and the Notice of Hearing were attached to the door of the rental unit. All of the Tenants acknowledged that they have viewed these documents.

On December 21, 2016 the Landlord submitted 20 pages of evidence to the Residential Tenancy Branch. On January 15, 2017 the Landlord submitted another 18 pages of evidence to the Residential Tenancy Branch, some of which were duplicates of documents previously submitted. The Agent for the Landlord stated that all of these documents were served with the Application for Dispute Resolution.

The male Tenant stated that only the following documents were received as evidence for these proceedings:

- the direct request worksheet;
- a receipt from a septic tank company, in the amount of \$493.50;
- two pages of text messages;
- one page of a telephone log; and the
- Ten Day Notice to End Tenancy that names the Tenants with the initials "J.G." and "A.S." and is dated December 12, 2016.

The documents that the Tenants acknowledge receiving were accepted as evidence for these proceedings.

The Landlord was advised that the remainder of the Landlord's evidence was not accepted as evidence for these proceedings as the Tenants do not acknowledge receiving all of the documents that were allegedly served. The Landlord was advised that the Landlord would be able to refer to his documentary evidence during the hearing and that if, during the hearing, the Landlord believed it was necessary for me to

physically view the evidence the Landlord could request an adjournment. This hearing was concluded without the Landlord requesting an adjournment.

On January 23, 2017 the Tenants submitted 1 page of evidence to the Residential Tenancy Branch. The male Tenant stated that this evidence was personally served to the Landlord on December 29, 2016. The Agent for the Landlord acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and to a monetary Order for unpaid rent or utilities?

### Background and Evidence

The Landlord and the Tenants agree that:

- this tenancy began on July 01, 2014;
- the current monthly rent is \$700.00;
- the tenancy agreement says rent is due on the last day of each month, in advance;
- the Landlord has been allowing the rent to be paid by the first day of each month;
- the rent is paid directly to the Landlord when he comes to the rental unit to pick up the rent;
- the Tenants were served with a Ten Day Notice to End Tenancy for Unpaid Rent, which has an effective date of December 22, 2016 and which names the Tenants with the initials "J.G." and "A.S.";
- rent for December of 2016 and January of 2017 was paid, in full, on December 29, 2016; and
- this Ten Day Notice to End Tenancy for Unpaid Rent was the subject of a dispute resolution hearing on January 23, 2017.

The file for the hearing on January 23, 2017 is recorded on the first page of this decision. The decision from that hearing was reviewed prior to rendering that decision, with the consent of both parties.

The Agent for the Landlord stated that the Landlord was aware of the hearing on January 23, 2017 but he was not represented at the hearing due to an error made by her sister, who was to represent the Landlord at that hearing.

The Tenant with the initials "A.S." stated that the Ten Day Notice to End Tenancy for Unpaid Rent that is the subject of this dispute was set aside at the hearing on January

23, 2017. This testimony is consistent with the decision rendered after the hearing on January 23, 2017.

### Analysis

On the basis of the undisputed evidence I find that rent for December of 2016 and January of 2017 has been paid in full. I therefore dismiss the Landlord's application for a monetary Order for unpaid rent for those months.

On the basis of the testimony of the Tenant with the initials "A.S." and the Residential Tenancy Branch records regarding the proceeding on January 23, 2017, I find that the Ten Day Notice to End Tenancy that is the subject of these proceedings was set aside at the hearing on January 23, 2017. As the Notice has been set aside at a previous proceeding, I must dismiss the Landlord's application for an Order of Possession on the basis of this Notice.

### Conclusion

The application for an Order of Possession is dismissed. This tenancy shall continue until it is ended in accordance with the *Act*.

The application for a monetary Order is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: January 25, 2017

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Residential Tenancy Branch