



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

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

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

The tenant did not attend this hearing, which lasted approximately 33 minutes. The landlord and her advocate 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 hearing began at 9:30 a.m. with only the landlord present. At approximately 9:51 a.m., the landlord informed me that she was anxious and confused and wanted to request assistance from her sister during the hearing. I agreed that the landlord could call her sister during the hearing in order to obtain assistance. At approximately 9:53 a.m., the landlord's sister joined the teleconference after receiving a phone call from the landlord. The landlord's sister is the advocate who participated in this hearing together with the landlord until it concluded at approximately 10:03 a.m.

The landlord testified that the tenant was served with the landlord's application for dispute resolution package on February 15, 2017, by way of registered mail. The landlord provided a Canada Post receipt and tracking number with her application. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on February 20, 2017, five days after its registered mailing.

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

The landlord sought an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated January 27, 2017 ("10 Day Notice") for unpaid rent of \$1,165.05, due on January 26, 2017. The landlord also sought a monetary order of \$1,165.05.

During the hearing, when I questioned the landlord about the amount of rent that was payable at the beginning of the tenancy in June 2015 and the current rent in March 2017, the landlord became confused and provided conflicting testimony. She stated that the rent was originally \$1,250.00 in the first written tenancy agreement, then \$1,150.00 at another point in time, and then \$1,165.05. When I asked whether she issued legal notices of rent increase to the tenant, she said that she had provided a copy of one but had indicated the wrong year of 2016 instead of 2015. She then claimed that the year 2016 was accurate. When I questioned her as to how she issued a notice of rent increase in 2016 when she negotiated a new rent amount of \$1,165.05 in the second tenancy agreement in July 2016, she said that she "backdated" the second tenancy agreement and the rent amount was incorrect. Throughout the hearing, I asked the landlord to clarify the rent amount, the tenancy agreements and the notice of rent increase but she continued to change her testimony and became confused by her own testimony and my questions.

The landlord's advocate claimed that she used to live at the rental property some time ago but that she no longer lived there. She provided emotional support to the landlord during the hearing but could not clarify the landlord's confusing testimony about rent.

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. The purpose of the provision is to provide a tenant with enough information to know the landlord's case so that the tenant might defend herself. The landlord's application refers to internet costs as relating to rent but does not clarify the changing rent amounts or the tenancy agreements.

I find that the landlord was unprepared for the hearing. The landlord provided conflicting and changing testimony about rent. The rent amount is necessary to determine the validity of the 10 Day Notice as well as the monetary order for unpaid rent. I found the landlord's testimony to be unclear and confusing. I provided the landlord with ample time during this hearing in order to sort through her paperwork in order to clarify her claim and provide me with clear testimony, but she failed to do so. I even provided her with an opportunity to telephone an advocate during the hearing in order to obtain assistance but the advocate was not helpful to the merits of the landlord's claim, only for emotional support.

Accordingly, as advised to the landlord during the hearing, I dismiss her application with leave to reapply, with the exception of the \$100.00 filing fee. I notified her that she would have to bear the cost of the \$100.00 filing fee paid for this application. I advised her that she would be required to file a new application and pay a new filing fee in order to pursue this matter further, if she chooses to do so.

I cautioned the landlord that she is required to properly and fully particularize her claims and application at the time of filing. I notified her that she could obtain any legal or other assistance prior to the hearing and that she could have agents appear on her behalf at future hearings. I cautioned her to be fully prepared for any future hearings and to provide clear testimony in order to obtain the relief sought in any applications. Failure to do so, may result in the landlord's applications being dismissed with or without leave to reapply.

#### Conclusion

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

The remainder of the landlord's application is dismissed with 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: March 15, 2017

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Residential Tenancy Branch