



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, ERP, MNDC, MNR, OLC, PSF, RP OPR, MNR, MSD, ET, FF

### Introduction

In the first application the tenants seek to cancel a ten day Notice to End Tenancy for unpaid rent as well as relief related to the effects of a fire in the home in December 2016.

In the second application the landlord seeks an order of possession pursuant to the Notice as well as a monetary award for unpaid rent and for damages claiming the tenants were responsible for the fire.

None of the tenants attended for the hearing within fifteen minutes after its scheduled start time.

The landlord states that all matters have been settled between the parties and that the tenants have now vacated the property. She produced a document purporting to indicate a mutual agreement to end the tenancy effective March 21, 2017. It is signed by the landlord and by the tenant Mr. D.S.

While this would appear to end the matter, the landlord states that someone at the Residential Tenancy Office told her she needs an order of possession to re-enter the premises.

The landlord testifies that she served the tenants with her application by registered mail. She was unable to produce receipts or to refer to any registered mail tracking numbers to confirm service. In these circumstances I am unable to find that the tenants have been served with the landlord's application.

To complicate matters when the tenants made their application for dispute resolution, the Residential Tenancy Branch issued to them a Notice of Hearing setting yesterday as the hearing date, though it was intended that the two applications be heard together,

today. The landlord received the tenants' application and contacted the Residential Tenancy Branch before the hearing to confirm that the hearing of both matters would occur today, not yesterday.

The tenants Mr. D.S. and Mr. C.D. (whom the landlord denies is a tenant) called in for the hearing at the appropriate time yesterday. They were informed (by me) of the error in their hearing letter and were instructed to call again today at the appropriate time. Neither did.

On this basis I conclude that the tenants were informed of the error in Notice of Hearing letter for their application and that the correct date for their hearing was today.

As none of them attended to pursue their claim, their application to cancel the ten day Notice to End Tenancy must be dismissed. In such circumstances, according to s. 55(1)(b) of the *Residential Tenancy Act*, the landlord must be issued an order of possession.

I therefore issue the landlord an order of possession.

The tenants' application is dismissed.

The balance of the landlord's application 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 *Residential Tenancy Act*.

Dated: March 30, 2017

---

Residential Tenancy Branch