



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, CNR, OPR, OLC, MNSD, MNDC, FF

### Introduction

This hearing dealt with cross applications. The tenant applied to cancel a 1 Month Notice to End Tenancy for Cause and a 10 Day Notice to End Tenancy for Unpaid Rent; orders for the landlord to comply with the Act, regulations or tenancy agreement; monetary compensation for damage or loss under the Act, regulations or tenancy agreement; and, return of the security deposit. The landlord applied for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

At the beginning of the hearing, I set out to confirm service of hearing documents upon each other. I confirmed that the tenant's hearing package was served upon the landlord, in person, on or about April 9, 2017 in the presence of a witness. As for service of the landlord's hearing package, the landlord testified that he posted his hearing package on the front door of the rental unit on April 9 or 10, 2017 in the presence of a witness. The tenant stated that he did not receive any documents on the door. The landlord testified that his witness had written a letter attesting to witnessing service on April 9, 2017. I noted that the landlord's hearing package was not generated until April 10, 2017 and the landlord stated he could not find the witness's letter and that the witness's letter may say April 10, 2017 is when service occurred. The tenant pointed out that an applicant cannot serve a monetary claim by posting on the door.

Where a landlord seeks an Order of Possession, the landlord's Application for Dispute Resolution may be posted on the door of the rental unit, as provided under section 89(2) of the Act. However, an application for a Monetary Order must be served in person or by registered mail. I found the landlord's varying testimony did not satisfy me that his Application for Dispute Resolution was served upon the tenant. As I informed the parties, a landlord may be provided an Order of Possession under a tenant's Application

for Dispute Resolution if the Notices to End Tenancy are upheld or the tenant's application to cancel the Notices to End Tenancy is dismissed. Accordingly, I proceeded to hear from the parties with a view to determining whether the Notices to End Tenancy should be upheld or cancelled.

After both parties had been given an initial opportunity to be heard, the parties indicated a willingness to resolve this dispute by way of mutual agreement. I was able to facilitate a mutual agreement between the parties and I have recorded the mutual agreement by way of this decision and the Orders that accompany it.

### Issue(s) to be Decided

What are the terms of the mutual agreement?

### Background and Evidence

During the hearing, the parties agreed upon the following terms and conditions in satisfaction of their dispute:

1. The tenancy shall continue until no later than 1:00 p.m. on June 1, 2017 at which time the tenant will return vacant possession of the rental unit to the landlord.
2. The outstanding rent for the month of April 2017, in the amount of \$1,100.00, shall be satisfied as follows: a) the tenant will pay \$550.00 to the landlord today and upon receipt of payment the landlord shall issue a receipt to the tenant b) the landlord shall retain the tenant's security deposit in satisfaction of \$550.00 of the outstanding rent.
3. The month of May 2017 is free to the tenant, meaning no rent is payable by the tenant for this month.
4. The landlord is permitted to inspect and document the condition of the rental unit at 6:00 p.m. on May 10, 2017.
5. Should the tenant fail to leave the rental unit reasonably clean and undamaged at the end of the tenancy the landlord retains the right to pursue the tenant for any damages or loss that result.

### Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement agreement during the hearing and to record the agreement in the form of a decision or order.

I have accepted and recorded the mutual agreement reached by the parties during this hearing and I make the terms an Order to be binding upon both parties.

In recognition of the mutual agreement, I provide the landlord with the following orders:

- An Order of Possession effective at 1:00 p.m. on June 1, 2017; and,
- A Monetary Order in the amount of \$550.00 to serve and enforce in the event the tenant does not satisfy term 2. a) of the mutual agreement.

Also in recognition of the mutual agreement, I authorize the landlord to retain the tenant's security deposit to be applied to outstanding rent for April 2017.

### Conclusion

The parties reached a mutual agreement in resolution of their dispute that I have recorded by way of this decision and the Orders that accompany it. In recognition of the mutual agreement, the landlord has been provided an Order of Possession effective at 1:00 pm. on June 1, 2017 to serve and enforce if necessary. In recognition of the mutual agreement, the landlord has been provided a Monetary Order in the amount of \$550.00 to serve and enforce in the event the tenant fails to fulfill term 2. a) of the mutual agreement. By way of this decision the landlord is also authorized to retain the tenant's security deposit in partial satisfaction of outstanding rent.

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: May 09, 2017

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Residential Tenancy Branch