



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sutton Maple Pacific Realty  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, OPB, OPR

### Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession, and a monetary order for outstanding rent.

Some written arguments have been submitted prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

The issues are whether or not the landlord has the right to an Order of Possession, and whether or not the landlord has established monetary claim against the tenants, and if so in what amount.

### Background and Evidence

The parties agree that this tenancy began on May 3, 2016, and that the present monthly rent is \$2200.00, due on the third of each month.

The landlord testified that the tenants had signed a fixed term tenancy agreement that required the tenants to vacate the rental unit at the end of the term, which was April 30, 2017, however the tenants have failed to do so.

The landlord testified that the tenants failed to pay any rent for the month of April 2017, and therefore the tenants were served with a 10 day Notice to End Tenancy on April 5, 2017, through the mail slot,; however the tenants have failed to comply with that notice.

The landlord further testified that the tenants have failed to pay any rent for the months of April 2017, May 2017, and now June 2017.

The landlord is therefore requesting an Order of Possession for as soon as possible.

The tenant testified that they did not sign an agreement that required them to vacate the rental unit at the end of the term, and therefore they do not believe they should have to move out of the rental unit.

The tenants further testified that they have not received any 10 day Notice to End Tenancy either.

The tenants further testified that they did pay the April 2017 rent, and have bank statements that show that that rent was paid; however they do agree that they have not paid the May 2017 rent or the June 2017 rent.

In response to the tenant's testimony the landlord testified that the tenants have not paid the April 2017 rent and at this time there is a total of \$6600.00 in rent outstanding.

### Analysis

The landlord has failed to provide a copy of the tenancy agreement or any copy of the Notice to End Tenancy for this hearing, and therefore I am not willing to issue an Order of Possession.

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met. In the absence of a 10 day Notice to End Tenancy or a tenancy agreement, it is just the landlord's word against that of the tenants and therefore the landlord has not met the burden of proving these claims.

I will however allow the landlord's claim for outstanding rent for the months of April 2017, May 2017, and June 2017 as the tenant has provided no evidence of having paid rent for any of those months. That being said, if the tenant provides proof to the landlord that the April 2017 rent has been paid, the landlord must deduct that amount as partial satisfaction of the \$6600.00 order.

Conclusion

Pursuant to section 62 of the Residential Tenancy Act, the landlord's application for an Order of Possession is dismissed with leave to reapply.

Pursuant to section 62 and 67 of the Residential Tenancy Act I have issued a monetary order for the respondents to pay \$6600.00 to the applicant.

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: June 07, 2017

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Residential Tenancy Branch