



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes          OPC, MNSD, MD, FF

### Introduction

On June 7, 2017, the Landlord submitted an Application for Dispute Resolution for an order of possession, to keep the security deposit, and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord attended the teleconference hearing; however, the Tenants did not. The Landlord testified that he served the Tenants with the Application for Dispute Resolution and Notice of Hearing, by registered mail sent on June 12, 2017.

I find that the Tenants have been duly served with the Notice of Hearing in accordance with sections 89 and 90 of the Residential Tenancy Act (the Act).

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issues to be Decided

- Is the Landlord entitled to an order of possession for cause?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began on September 1, 2016 as a month to month tenancy. Rent in the amount of \$1,150.00 is to be paid on the first day of each month. The Tenants paid the Landlord a \$575.00 security deposit.

The Landlord issued a 1 Month Notice to End Tenancy for Cause ("the 1 Month Notice") by posting it on the Tenants' front door on April 21, 2017. The reason checked off by the Landlord within the Notice is:

Tenant or a person permitted on the property by the Tenant has:

- Significantly interfered with or unreasonably disturbed another occupant or the Landlord
- Put the Landlord's property at significant risk

Tenant has engaged in illegal activity that has, or is likely to:

- Damage the Landlord's property
- Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the Landlord

Tenant has caused extraordinary damage to the unit/site property /park

The 1 Month Notice states the Tenants must move out of the rental unit by May 31, 2017. The Notice informed the Tenants of the right to dispute the Notice within 10 days after receiving it. The Notice informed the Tenants that if an application to dispute the Notice is not filed within 10 days, they are presumed to accept the Notice and must move out of the rental unit on the date set out on page 1 of the Notice.

There is no evidence before me that that the Tenants made an application to dispute the 1 Month Notice.

The Landlord testified that the Tenant sent him a text message after they received the 1 Month Notice.

The Landlord is also seeking compensation for damage to the rental unit. The Landlord testified that he noticed a broken window at the rental unit. He testified that he knocked on the door and tried contacting the Tenants but got no response. The Landlord testified that he hired a window repair company to replace the window. The Landlord is seeking \$173.29 for the cost of the window repair. The Landlord provided a receipt from the window company.

The Landlord is seeking compensation for disposal of the Tenants' garbage. The Landlord testified that he asked the Tenants to remove bags of garbage on the property, and when they did not comply, he took the garbage to the dump. The Landlord is seeking to recover the dump fee of \$14.00. The Landlord provided a receipt for the dump fee.

The Landlord also testified that he has not received all the rent owing under the tenancy agreement for the month of July 2017.

The Landlord seeks an immediate order of possession and compensation for window and dump fee in the amount of \$187.29

The Landlord requested to keep \$187.29 from the security deposit in satisfaction of his monetary claims.

### Analysis

Section 47 (5) of the Act states that if a Tenant who has received a Notice under this section does not make an application for dispute resolution in accordance with subsection (4), the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenants received the 1 Month Notice and did not apply to dispute the Notice, and are therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective two (2) days after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

I find that the Tenants are responsible for the repair cost to the window and for the cost to dispose of the garbage. I grant the Landlord \$187.29.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I order that the Landlord can keep the amount of \$287.29 from the security deposit in satisfaction of his claims.

### Conclusion

The Tenants did not apply to dispute the 1 Month Notice To End Tenancy For Cause dated April 21, 2017. The Tenants are presumed under the law to have accepted that the tenancy ended on May 31, 2017, the effective date of the Notice.

The Landlord is granted an order of possession effective two days after service on the Tenants, and I order that the Landlord can keep \$287.29 from the Tenants' security deposit.

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: July 06, 2017

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Residential Tenancy Branch