



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord by way of the Direct Request process for an Order of Possession and a monetary order for unpaid rent or utilities. A copy of a Decision of the director has been provided for this hearing which orders a participatory hearing.

The landlord and the tenant and a witness for the tenant attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other and the witness, and all evidence provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent or utilities?
- Has the landlord established a monetary claim as against the tenant for unpaid rent or utilities?

### Background and Evidence

**The landlord** testified that this month-to-month tenancy began on December 1, 2016 and the tenant still resides in the rental unit. Rent in the amount of \$600.00 per month is payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$300.00 which is still held in trust by the landlord and no pet damage deposit was collected. The rental unit is an apartment suite, and the landlord resides in the same apartment complex.

The landlord further testified that he served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit on April 1, 2017. A copy has been provided and it is dated April 1, 2017 and contains an effective date of vacancy of April 11, 2017 for unpaid rent in the amount of \$949.00 that was due on April 1, 2017 and \$249.00 unpaid utilities following a written demand on April 3, 2017. The tenant is in arrears \$100.00 for each of the months of January and February, 2017 and didn't pay rent for April or May, 2017. The tenant was also required to pay all hydro bills but hasn't paid any. Copies have been provided, however the landlord has not yet received the last bill.

The tenant said she needed a signed tenancy agreement for the Ministry to pay rent, so the landlord prepared one and signed it and asked the tenant to return a signed copy, but the tenant never did. The tenant was having financial troubles and in April or May the landlord discovered that the tenant only received \$500.00 per month from a government Ministry, but rent is \$600.00.

The landlord served another notice to end the tenancy to show the present amount due, but a copy has not been provided for this hearing.

**The tenant** testified that the landlord is incorrect. The tenancy began on November 1, 2016, and rent for April and May, 2017 is paid in full. The landlord has provided receipts showing \$600.00 rent paid for April 1 and May 1, 2017. The landlord told the tenant that he wouldn't accept June's rent even if the tenant gave it to him because the landlord wanted the tenant to move out.

**The tenant's witness** testified that the tenant was a couple hundred dollars behind in rent, and the witness moved in with the tenant and the parties worked it out, and the landlord agreed that as long as the entire rental amount was paid during the month, that was okay.

However, the tenants had a small fire on the stove, and the landlord got mad and told the tenants that they had to be out in 3 days. Rent was paid for April and May, 2017 and the landlord told the tenant and the witness that he would not accept June's rent, and the tenant can't force it on him.

The landlord has not provided any hydro bills to the tenant, nor has the witness seen any.

### Analysis

The *Residential Tenancy Act* states that if a tenant pays rent within 5 days after a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities has been served, the notice is of no effect. The landlord testified that the tenant failed to pay rent for April and May, 2017, but has provided receipts showing the full amount of rent due. The landlord also testified that the tenant hasn't paid any rent for June or July. A landlord may not rely on a notice to end a tenancy for previous months to obtain an Order of Possession for current months.

Having considered the testimony and evidence of the parties, I am not satisfied that the tenant didn't pay the rent in full within 5 days of issuing the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and I decline to issue an Order of Possession.

### Conclusion

For the reasons set out above, the landlord's application is hereby 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: July 31, 2017

---

Residential Tenancy Branch