



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC, OPR, MNR

### Introduction

This hearing was convened by way of conference call in response to the Landlord's Application for Dispute Resolution (the "Application") filed on June 7, 2017 for an Order of Possession for: cause; and unpaid rent. The Landlord also applied for a Monetary Order for unpaid rent.

The Landlord appeared for the hearing with his son who helped the Landlord for the first ten minutes of the hearing. All testimony was provided under affirmation. However, there was no appearance for the Tenants during the 30 minute hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents by the Landlord for this hearing.

The Landlord testified that each Tenant was served a copy of the Application and the Hearing Package personally on June 7, 2017. Based on the undisputed oral evidence of the Landlord, I find the Tenants were each served notice of this hearing in accordance with Section 89(1) (a) of the Act. The hearing continued to hear the undisputed evidence of the Landlord.

### Preliminary Issues

During the hearing, the Landlord withdrew his Application for an Order of Possession for unpaid rent because he was seeking eviction through the notice to end tenancy for cause, namely because of the Tenants' continually payment of rent late in the tenancy. Therefore, in this hearing, I only determined the Landlord's request for an Order of Possession pursuant to the notice to end tenancy for cause. The Landlord also withdrew his monetary claim because he was confused and was not in a position to explain the exact amount of rental arrears the Tenants were in. Therefore, I allowed the Landlord to withdraw the monetary claim but provided leave to re-apply.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for cause?

### Background and Evidence

The Landlord testified that this tenancy began on December 1, 2016 pursuant to an oral agreement for the Tenants to rent the unit on a month to month basis. Monthly rent of \$850.00 is payable by the Tenants on the first day of each month. The Tenants paid a \$450.00 security deposit at the start of the tenancy, which the Landlord still retains.

The Landlord testified that on April 20, 2017 he served the Tenants personally with a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"). The 1 Month Notice was provided into evidence and shows the reasons for ending the tenancy are: the Tenants have been repeatedly late paying rent; and, they have significantly interfered with or unreasonably disturbed another occupant or the Landlord. The vacancy date on the 1 Month Notice is May 31, 2017.

The Landlord testified that the Tenants have not disputed the 1 Month Notice and have not paid any rent for July 2017. The Landlord also requested the recovery of the filing fee he had to pay to file this Application.

### Analysis

Section 47(1) (b) allows a landlord to end a tenancy by giving a tenant a 1 Month Notice for repeatedly late paying rent. Section 47(1) (d) (i) of the Act allows a landlord to end a tenancy by giving a 1 Month Notice if the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

I find that the contents on the approved 1 Month Notice form comply with Section 52 of the Act. I also accept the Landlord's oral evidence that the Tenants were served the 1 Month Notice personally on April 20, 2017. Sections 47(4) and (5) of the Act explain that if a tenant fails to make an Application to dispute the 1 Month Notice within ten days after receiving it, then they are conclusively presumed to have accepted the tenancy ends on the vacancy date of the 1 Month Notice.

I find the Tenants had ten days after April 20, 2017 to make an Application to dispute the 1 Month Notice. There is no evidence before me that the Tenants did to. Therefore, I find that the Tenants are conclusively presumed to have accepted the 1 Month Notice and accepted the tenancy ended.

As the vacancy date of the 1 Month Notice has now passed and the Tenants are occupying the rental unit without paying rent, the Landlords are entitled to an Order of Possession effective two days after service on the Tenants.

Copies of this order are attached to the Landlord's copy of this Decision. This order must be served on the Tenants and may then be filed and enforced in the Supreme Court as an order of that court if the Tenants fail to vacate the rental unit. The Tenants may be held liable for any enforcement costs incurred by the Landlord.

In relation to the Landlord's request to recover the filing fee, as the Landlord has been successful in obtaining an order to end the tenancy and the Tenants failed to appear, I award the Landlord the filing fee pursuant to my authority under Section 72(1) of the Act. Pursuant to Section 72(2) (b) of the Act, the Landlord may achieve this relief by deducting \$100.00 from the Tenants' security deposit.

#### Conclusion

The Tenants failed to dispute the 1 Month Notice dated April 20, 2017. Therefore, the Landlords' Application for an Order of Possession is granted effective two days after service on the Tenants. The Landlord withdrew his monetary claim for which I provide leave to re-apply. The Landlord may recover the filing fee 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 Act.

Dated: July 26, 2017

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Residential Tenancy Branch