



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CKL INVESTMENTS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MNR, MNSD, MNDC, FF

### Introduction

The landlord applies for an order of possession pursuant to a one month Notice to End Tenancy for cause dated May 10, 2017 and for a monetary award for unpaid rent and occupation rent.

Both parties attended the hearing, the landlord represented by Ms. C., and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Has the Notice ended the tenancy? What if anything is the landlord owed?

### Background and Evidence

The rental unit is a one bedroom apartment. The tenancy started in October 2016. There is a written tenancy agreement. The monthly rent is \$900.00. The landlord holds a \$450.00 security deposit.

The tenant received the Notice on his return from abroad on May 31, 2017. He has not applied to dispute the Notice. Its effective date to end the tenancy is June 30, 2017.

He offered to pay rent for July but it was refused by the landlord.

### Analysis

The tenant received this application from the landlord on June 5, 2017. He was under the impression that he could dispute the Notice at this hearing.

Section 47 (4) and (5) of the *Residential Tenancy Act* provides:

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) 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

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

If a tenant fails to apply to dispute a one month Notice within ten days from receipt, he is “conclusively presumed” to have accepted the end of the tenancy. The tenant in this matter erred in concluding he could dispute the Notice at this hearing.

As a result, this tenancy ended June 30, 2017 and the landlord will have an order of possession.

It is not unusual for a landlord to refuse “rent” after a Notice has ended a tenancy. Such an act may be taken as a revival of the now ended tenancy.

Nevertheless, the tenant has occupied the premises for July and the landlord is entitled to occupation rent of \$900.00.

As well, I find that the tenant will not likely vacated quickly and that the landlord will lose the opportunity to find a new tenant for August. I award it an additional \$900.00 for loss of August rental income. This award does not entitle the tenant to lawfully stay any longer.

### Conclusion

The landlord’s application is allowed. She will have an order of possession.

The landlord will have a monetary award totalling \$1800.00, plus recovery of the \$100.00 filing fee. I authorize it to retain the \$450.00 security deposit in reduction of the award. The landlord will have a monetary order against the tenant in the amount of \$1450.00.

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 25, 2017

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Residential Tenancy Branch