



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            OPR, CNR, MNR, MT, CLN

### Introduction

The landlord and the tenant convened this hearing in response to applications.

The landlords' application is seeking orders as follows:

1. For a monetary order for unpaid rent;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent;
2. To be allowed more time to make an application to cancel a Two Month Notice to End Tenancy; and
3. To cancel a Two Month Notice to End Tenancy for Landlord's Use of Property.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenants have indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenants' request to set aside the Notice to End Tenancy and the landlords' application for an order of possession and monetary order for unpaid rent. The tenants' claim for monetary compensation for utilities is dismissed with leave to reapply.

### Preliminary matter

The landlord's agent indicted the tenant CT, should be added as a respondent in their application. CT stated they are tenant and they are representing their co-tenant.

In light of the above, I find It appropriate to amend the style of cause to reflect both tenants.

#### Issues to be Decided

Are the landlords entitled to an order of possession for unpaid rent?

Are the landlords entitled to a monetary order?

Should the 10 Day Notice to End Tenancy be cancelled?

Should the tenant be allowed more time to dispute a Two Month Notice?

#### Background and Evidence

The landlord's agent testified that the landlord purchased the property on July 30, 2017, and is unsure when the tenancy commenced. Rent in the amount of \$1,600.00 was payable of the 1<sup>st</sup> of the month. The agent was unsure if the security deposit was transferred when the property was sold.

The landlord's agent testified that the tenants did not pay rent for August 2017 and September 2017, and on September 27, 2017, the tenants paid the landlord the sum of \$3,200.00 by certified cheque.

The landlord's agent testified that the tenants then failed to pay rent for October 2017 and November 2017, and were served with a notice to end tenancy for unpaid rent on November 13, 2017. The agent stated that no rent has been paid for October, November and December 2017.

The landlord's agent testified that the tenants currently owe the amount of \$4,800.00.

The tenant testified that they paid the landlord cash on September 3, 2017, as they withdrew \$3,000.00 from their account and topped it up with \$200.00. The tenant testified that the certified cheque the landlord was given on September 27, 2017, was for advance payment of rent for October 2017 and November 2017.

The landlord testified that the tenant is lying that they never received any cash from the tenants.

#### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

In this case, I find it more likely than not that the money said to be withdraw on September 3, 2017, was likely to purchase the certified cheque that was given to the landlord's on September 27, 2017, for unpaid rent for August and September 2017.

I do not accept that the tenants paid another \$3,200.00 in September for advance rent payment of October 2017 and November 2017, that does not have the ring of truth.

Therefore, I find the 10 Day Notice to End Tenancy for Unpaid Rent if valid.

I find that the landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective **two 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 landlords have established a total monetary claim of **\$4,900.00** comprised of unpaid rent for October, November and December 2017 and the \$100.00 fee paid by the landlords for this application.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

As I have found the tenancy has legally ended on the basis of unpaid rent, I find it not necessary to consider the tenants' application to be allowed more time to dispute a Two Month Notice to End Tenancy for Landlord's Use of Property. Therefore, I dismiss this portion of the tenants' claim.

### Conclusion

The tenants failed to pay rent. The landlords are granted an order of possession, and a monetary order for unpaid rent.

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: December 20, 2017

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Residential Tenancy Branch