



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *OPR, CNR, LRE, CNC, FF*

### **Introduction**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for the recovery of the filing fee. The tenant applied to cancel the notices to end tenancy for non-payment of rent and for cause. The tenant also applied to restrict the landlord's entry into the rental unit.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### **Issues to be decided**

Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside? Is the tenant entitled to the remedies that she has applied for?

### **Background and Evidence**

The tenancy started on May 01, 2017. The rent is \$795.00 per month due on the first of each month. Prior to moving in the tenant paid a security deposit of \$387.50.

On October 04, 2017, the landlord served the tenant with a notice to end tenancy for unpaid rent in the amount of \$795.00, by posting the notice on the tenant's door. The tenant agreed that partial rent was paid by Social Services and the balance of rent was paid sometime in November 2017. The tenant's agent stated that he disputed the notice within the legislated time frame of five days. The landlord agreed that the tenant was current on rent.

The tenant testified that the landlord entered her suite without permission or providing 24 hours' notice. The landlord stated that the police were about to kick open the door and therefore she used her key to grant them access to the rental unit.

### **Analysis**

Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent or dispute the notice by making application for dispute resolution. If the tenant does not pay rent or dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date.

The tenant is deemed to have received the notice to end tenancy for unpaid rent, on October 04, 2017 and did not pay full rent within five days of receiving the notice to end tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the notice. Pursuant to section 55(2), I am issuing a formal order of possession effective by 1pm on January 31, 2018. The order may be filed in the Supreme Court for enforcement.

Since the landlord has proven her claim I award the landlord the recovery of the filing fee of \$100.00. The landlord may retain \$100.00 from the security deposit.

Since the tenancy is ending, the tenant's application to restrict the landlord's entry into the unit is moot and accordingly dismissed. The landlord must abide by s.29 of the *Residential Tenancy Act* if she needs to enter the rental unit.

### **Conclusion**

I grant the landlord an order of possession effective by 1:00 pm on January 31, 2018. The tenant's application is dismissed in its entirety.

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 28, 2017

---

Residential Tenancy Branch