



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL, MNRL, OPR

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by Landlord 1 on February 20, 2018 (the “Application”). Landlord 1 sought an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 9, 2018 (the “10 Day Notice”). Landlord 1 also sought to recover the money for the unpaid rent and reimbursement for the filing fee.

D.H. is the daughter of the Landlords and appeared as agent for the Landlords at the hearing. D.H. confirmed Landlord 1 was aware she was appearing for Landlord 1 and confirmed she had authority to provide evidence and submissions on behalf of Landlord 1. D.H. said she has been involved with this tenancy throughout. Both Tenants appeared at the hearing. The hearing process was explained to the parties and none of the parties had questions about the proceedings when asked. All parties provided affirmed testimony.

I made several amendments to the Application at the outset of the hearing. Tenant C.S. was not named in the Application. All parties agreed Tenant C.S. is a tenant under the tenancy agreement. Given this, and because Tenant C.S. appeared at the hearing, I amended the Application to include Tenant C.S. as a tenant. I also amended the Application to include Landlord 2 as D.H. said both Landlord 1 and Landlord 2 own the rental unit and the Tenants said they only know Landlord 2. Further, I amended the Application to indicate that the rental unit is a basement suite based on the evidence of D.H. The amendments are reflected in the style of cause or on the front page of this decision.

The Tenants confirmed receipt of the hearing package. The Tenants had not received the Landlords’ evidence; however, the only evidence submitted was the 10 Day Notice.

The Tenants confirmed they had received the 10 Day Notice when it was originally served on them. I admitted the 10 Day Notice pursuant to rule 3.17 of the Rules of Procedure as I could not see how this could prejudice the Tenants or result in a breach of the principles of natural justice when the Tenants had previously been served with the 10 Day Notice. The Tenants had not submitted any evidence prior to the hearing.

Both parties agreed there is an oral tenancy agreement. D.H. said the agreement includes a no pets term and a no smoking term. The Tenants did not agree that these are terms of the agreement. D.H. said Landlord 1 is the landlord under the agreement. The Tenants said they only know Landlord 2. D.H. confirmed that both Landlord 1 and Landlord 2 own the rental unit. All parties agreed both Tenants are tenants under the agreement. D.H. thought the tenancy started in November of 2017 but could not remember. The Tenants said the tenancy started October 10, 2017. D.H. said the tenancy is a weekly tenancy. The Tenants said the tenancy is a month-to-month tenancy. D.H. said the rent is \$250.00 per week due at the beginning of the week. The Tenants said the rent is \$1,000.00 per month due on the first of each month.

During the hearing, I raised the possibility of settlement pursuant to section 63(1) of the *Residential Tenancy Act* (the "Act") which allows an arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary. I told the parties that if they chose not to discuss settlement I would make a final and binding decision in the matter. I told the parties that if they chose to discuss settlement and did not come to an agreement, that was fine and I would make a final and binding decision in the matter. I told the parties that if they did come to an agreement I would write out the agreement in my written decision and make any necessary orders. I explained that the written decision would become a final and legally binding agreement. I told the parties that this meant none of the parties could change their mind later. The parties did not have questions about the above when asked. The parties agreed to discuss settlement and a discussion ensued.

Prior to ending the hearing, I confirmed the terms of the settlement agreement with the parties. I told the parties I would issue an Order of Possession and Monetary Order both of which could be served on the Tenants and enforced in court if the Tenants did not comply with the agreement and orders. I confirmed with the parties that all issues had been covered. The parties confirmed they were agreeing to the settlement voluntarily and without pressure from the other party or me. The parties confirmed they understood the agreement was final and legally binding. D.H. confirmed she understood the Landlords would be bound by the agreement and confirmed she had authority to agree to the settlement on behalf of the Landlords. Tenant C.S. confirmed

she understood Tenant D.P would be bound by the agreement. The parties did not have any final questions or comments when asked.

### Settlement Agreement

The Landlords and Tenants agree as follows:

1. The 10 Day Notice is cancelled.
2. The tenancy will end and the Tenants will vacate the rental unit by 4:00 p.m. on May 31, 2018.
3. The Tenants will not smoke in the rental unit.
4. The Tenants will pay the Landlords \$4,850.00 by November 30, 2018. This amount represents all monies owing by the Tenants to the Landlords under the tenancy agreement from the start of the agreement to the end of the agreement.
5. All rights and obligations of the Landlords and Tenants under the tenancy agreement will continue except for any prior agreement about the amount of rent due or the due date of rent which no longer applies given term 4 above.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

Further to the settlement agreement, the 10 Day Notice is cancelled.

I realised after concluding the hearing that I had not addressed the issue of reimbursement of the filing fee. Based on the evidence I heard, it is my view that the Tenants should reimburse the Landlords for the cost of the filing fee. Therefore, pursuant to section 72(1) of the *Act*, I have added \$100.00 to the amount owed by the Tenants to the Landlords and this is reflected in the Monetary Order.

The Landlords are granted a Monetary Order in the amount of \$4,950.00. If the Tenants fail to pay the Landlords in accordance with the settlement agreement set out above, the Landlords must serve this Order on the Tenants. If the Tenants fail to comply with the Order, the Order may be enforced in the Small Claims Division of the Provincial Court as an order of that court.

The Landlords are granted an Order of Possession for the rental unit which is effective at 4:00 p.m. on May 31, 2018. If the Tenants fail to vacate the rental unit in accordance with the settlement agreement set out above, the Landlords must serve the Tenants with this Order. If the Tenants fail to vacate the rental unit in accordance with the Order, the Order may be enforced in the Supreme Court as an order of that court.

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: May 09, 2018

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Residential Tenancy Branch