



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, DRI, LRE, MT, OLC, FFT

### Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice), for more time to dispute the 10 Day Notice, to dispute a rent increase, to suspend or restrict the Landlord’s right to enter the rental unit, for an order for the Landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, and for the recovery of the filing fee paid for this application.

One of the Landlords was present for the teleconference hearing, while no one called in for the Tenants during the approximately 15-minute hearing. The Landlord confirmed that the Notice of Dispute Resolution Proceeding package was served to them along with copies of the Tenants’ evidence, by leaving it on their door. The Landlord served the Tenants with copies of their evidence by leaving it on their door.

### Issues to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent be set aside?

If the 10 Day Notice is upheld, should an Order of Possession be issued to the Landlords?

Should the Tenants be granted more time to dispute the 10 Day Notice?

Are the Tenants entitled to recover rent increases that were not made in accordance with the *Residential Tenancy Act*?

Should the Landlords be suspended or restricted in their right to enter the rental unit?

Should an Order be issued for the Landlords to comply with the *Residential Tenancy Act*, *Residential Tenancy Regulation* or tenancy agreement?

Are the Tenants entitled to the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

The Landlord provided testimony that the tenancy ended on June 27, 2018 when the Tenants moved out of the rental unit. The Landlord stated that two previous hearings had been held, one for an order to end the tenancy early, which was not granted, and a second hearing based on the Tenants' application to cancel a notice to end tenancy, at which time an Order of Possession was granted to the Landlords.

After receiving the Order of Possession, the Tenants vacated the rental unit on June 27, 2018.

The Landlord stated that both parties have agreed that money remains owing to the Landlords in the form of unpaid rent and damages to the rental unit. The Landlord was hoping that as this hearing was the third hearing regarding this tenancy, that the monetary claims of the Landlord could be dealt with.

### Analysis

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* states that if a party does not attend a hearing, the hearing may continue in their absence, or the application may be dismissed. In the absence of the Tenants who filed this application, the hearing continued in order to determine whether an Order of Possession should be granted to the Landlords.

As the tenancy has already ended, I find that the claims in dispute are no longer relevant. Therefore, I dismiss the Tenants' application without leave to reapply.

Pursuant to Section 55 of the *Act*, if a tenant's application to cancel a notice to end tenancy is dismissed, an Order of Possession must be granted to the landlord. However, I accept the Landlord's testimony that the tenancy has ended, and therefore an Order of Possession is not needed and will not be issued.

Although the Landlord was planning to have their monetary claims for outstanding rent and damages to the rental unit dealt with during the hearing, the Landlord did not file an application for these claims to be heard at this time. A tenant has the right to know the claims against them and to submit testimony and evidence in response of the claims. The Landlord was informed that they can file a separate Application for Dispute Resolution for their monetary claims.

As this application has been dismissed, I decline to award the recovery of the filing fee paid for this application to the Tenants.

### Conclusion

As the tenancy has already ended, the Tenants' Application for Dispute Resolution is dismissed without leave to reapply.

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 16, 2018

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Residential Tenancy Branch