



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR  
                             OPC, FFL

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”). The matter was set for a conference call.

The Tenant’s Application for Dispute Resolution was made on September 6, 2018. The Tenant applied to cancel a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”), dated September 4, 2018. The Landlord’s Application for Dispute Resolution was made on September 18, 2018. The Landlord applied to enforce a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”), dated September 4, 2018, for a monetary order for Unpaid Rent or Utilities, permission to retain the security deposit and to recover her filing fee.

The Landlord and her advocate attended the conference call hearing; however, the Tenants did not. As the Tenants are also applicants in this hearing, I find that the Tenants had been duly notified of the Notice of Hearing in accordance with the *Act*. The Landlord and her advocate were each affirmed to be truthful in their testimony

The Landlord was provided with the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matter

At the outset of the hearing, the Landlord testified that the Tenants had moved out of the rental unit and that he no longer required an Order of Possession. The Landlord testified that she wished to proceed with her application in regard to her monetary request for unpaid rent and for permission to retain the security deposit.

Additionally, the Landlord testified that she made a clerical error on her application and only listed one of the Tenants as the respondent to her application. The Landlord was advised that any monetary award she may be granted in these proceeding would only be issued against the Tenant she listed as the responded in her application. The Landlord testified that she understood and that she still wished to proceed with the hearing today.

#### Issues to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to retain the security deposit for this tenancy?
- Is the Landlord entitled to the recovery of the filing fee for her application?

#### Background and Evidence

The Landlord testified that the tenancy began on April 1, 2018. Rent in the amount of \$1,000.00 was to be paid by the first day of each month. At the outset of the tenancy, the Tenants paid the Landlord a \$500.00 security deposit.

The Landlord testified that she served the Notice to End Tenancy to the Tenants on September 4, 2018, showing an outstanding rent amount of \$1,200.00. The Landlord also testified that the Tenants had not paid the outstanding amount of rent despite their application to dispute the Notice.

The Landlord also testified that the Tenants moved out of the rental unit on September 30, 2018. The Landlord is requesting a Monetary Order of the outstanding rent as indicated on the Notice, permission to retain the security deposit and the recovery of the filing fee paid for her application.

#### Analysis

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

I find that the Tenants received the 10-Day Notice on September 4, 2018, and did apply to dispute the Notice within the legislated timeline. This matter was set for hearing by telephone conference call at 9:30 a.m. on this date. The line remained open while the phone system was monitored for ten minutes and the only participants who called into the hearing were the Landlord and her advocate.

Rules 7.1 and 7.3 of the Rules of Procedure provide as follows:

**7.1** The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

**7.3** If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Therefore, as the Tenants did not attend the hearing by 9:40 A.M, I dismiss the Tenants' application without leave to reapply.

I accept the undisputed testimony of the Landlord that the Tenants have not paid the full rent for August and September 2018. I find that the Landlord has established an entitlement to a monetary award for unpaid rent. I grant the Landlord a Monetary Order in the amount of \$700.00, consisting of the unpaid rent for August and September 2018, less the \$500.00 security deposit the Landlord is holding.

As the Landlord was successful in her application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application

#### Conclusion

The Tenants' application is dismissed, without leave to reapply.

I grant the Landlord a **Monetary Order** in the amount of **\$800.00** for the outstanding rent and the recovery of the filing fee for this application. The Landlord is provided with this Order in the above terms, and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced 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 *Residential Tenancy Act*.

Dated: October 24, 2018

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Residential Tenancy Branch