



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNR, OPR, OPC, FF

Introduction

In the first application the tenants seek to cancel a one month Notice to End Tenancy for cause.

In the second application the landlord seeks an order of possession pursuant to the one month Notice, an order of possession pursuant to a ten day Notice to End Tenancy for unpaid rent and a monetary award for September and November rent. At hearing the landlord altered her request to claim only September rent.

Since the applications were brought the tenants have vacated the rental unit and the landlord has possession. In these circumstances the question of the validity of the one month Notice is moot: its determination would serve no practical purpose.

The parties were instructed about the law contained in the *Residential Tenancy Act* and particularly s.26 requiring a tenant to pay rent and thus, prohibiting a tenant from unilaterally attempting to apply deposit money against outstanding rent. They agreed the landlord will retain the security deposit and pet damage deposit in full satisfaction of her claim for unpaid September rent.

The tenants have applied to challenge the one month Notice but have instead decided to vacate the property. Therefore they must bear the cost of their own filing fee.

The tenants should have paid the September rent when it was due. The landlord was therefore entitled to bring her application to recover it. The landlord is entitled to recover the \$100.00 filing fee paid for her application and I award it to her. She will have a monetary order against the tenants in the amount of \$100.00.

The parties raised various issues about the other during the hearing but which were not directly relevant to the claims made in the two applications. They were directed to contact an Information Officer at the Residential Tenancy Branch for guidance and instruction.

This decision was rendered orally at hearing and 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 18, 2018

Residential Tenancy Branch