



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, OPM, OPC, MNRL-S, FFL;    CNR, ERP, RP, LAT, LRE,  
OLC, FFT

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, based on a mutual agreement to end tenancy, and for cause, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for her application, pursuant to section 72.

This hearing also dealt with the tenants' cross-application pursuant to the *Act* for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 3, 2019 ("10 Day Notice"), pursuant to section 46;
- an order requiring the landlord to complete emergency and regular repairs to the rental unit, pursuant to section 33;
- authorization to change the locks to the rental unit, pursuant to section 70;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for their application, pursuant to section 72.

"Tenant JP" and "tenant AP" did not attend this hearing, which lasted approximately 28 minutes. Tenant MP ("tenant") and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that he had permission to represent the other two tenants, tenant JP and tenant AP, as an agent at this hearing.

The hearing began at 9:30 a.m. with me and the landlord present. The tenant called in to the hearing late at 9:43 a.m. I notified the tenant about what occurred in his absence. The hearing ended at 9:58 a.m.

The tenant claimed that the tenants did not receive the landlord's application for dispute resolution hearing package, where the landlord applied for the order of possession and the filing fee. The landlord claimed that she did not require the order of possession because the tenants had already moved out of the rental unit. Accordingly, I notified both parties that the landlord's application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The tenant said that the tenants did not receive the landlord's amendment to her application, for the unpaid rent and to retain the security deposit. The landlord said that she filed this on April 8, 2019, after her original application on April 2, 2019. The landlord claimed that she personally served it to tenant JP and left a copy in the tenants' mail slot. She said that someone witnessed the personal service but they did not attend this hearing as a witness.

As per sections 89(1) and 90 of the *Act*, the landlord is not permitted to leave a copy of the amendment to her application, in the tenants' mail slot for a monetary order. Further, the landlord did not produce a witness for the personal service to tenant JP and the tenant confirmed that tenant JP did not receive the amendment. Therefore, I find that the tenants were not served with the landlord's amendment and the landlord's application for the monetary order for unpaid rent and to retain the tenants' security deposit is dismissed with leave to reapply. I notified both parties about this decision during the hearing.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application.

The tenant said that he was not pursuing the tenants' entire application because the tenants had already moved out. Accordingly, I notified the tenant that the tenants' entire application was dismissed without leave to reapply, including the \$100.00 filing fee, as they did not pursue their application and I was not required to make a decision on the merits of their claims.

Conclusion

The landlord's application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The landlord's application for a monetary order for unpaid rent and to retain the tenants' security deposit is dismissed with leave to reapply.

The tenants' entire application 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: April 29, 2019

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Residential Tenancy Branch