



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPL, CNL, FF

### **Introduction**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and the tenant applied for an order to cancel the notice to end tenancy for landlord's use of property. Both parties applied for the recovery of the filing fee.

The tenant testified that he served the notice of hearing on the landlord in person on or about March 30, 2019. The landlord responded by requesting a change of date of the hearing scheduled for today. Despite making application and having been served a notice of hearing by the tenant, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Since the landlord did not attend the hearing the landlord's application is dismissed and the notice to end tenancy is set aside.

### **Issues to be decided**

Is the tenant entitled to a monetary order for the recovery of the filing fee?

### **Background and Evidence**

The tenancy started 7 years ago. The current monthly rent is \$2,808.00 payable on the first of the month. Prior to moving in the tenant paid a security deposit of \$1,404.00.

On March 23, 2019, the landlord served the tenant with a notice to end tenancy for landlord's use of property. The tenant disputed the notice in a timely manner.

### **Analysis**

In order to support the notice to end tenancy, the landlord must prove the grounds alleged as the reason for the notice to end tenancy. The landlord did not attend the hearing.

Without additional testimony and evidence to support the reason for the notice to end tenancy, the landlord has not met the burden of proof and therefore I allow the tenant's application and set aside the landlord's notice to end tenancy.

Since the notice has been set aside, I award the tenant the recovery of the filing fee of \$100.00. I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for **\$100.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

The notice to end tenancy is set aside and the tenancy shall continue.

I grant the tenant a monetary order in the amount of \$100.00.

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: May 09, 2019

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Residential Tenancy Branch