



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OLC, RP, MNDC, OP, MNR, FF

### Introduction

In the first application the tenants seek to cancel a ten day Notice to End Tenancy for unpaid rent. They also seek a compliance order and a repair order for the washing machine as well as a monetary award for loss of its use.

In the second application the landlords seek an order of possession and a monetary award for unpaid rent.

Since the applications were brought, the tenants vacated the rental unit. As a result, the issues surrounding the Notice to End Tenancy, the compliance and repair orders and the order of possession request are no longer relevant.

The listed parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

During the hearing the landlord Mr. V. referred to certain evidence he had filed, particularly text messages between the landlords and the tenants. The tenant Mr. K. stated he had not received this evidence. An adjournment was offered but Mr. K. declined, accepting admission of the material and expressing his desire to proceed with the hearing today.

Issue(s) to be Decided

Have the landlords failed to attend to a repair of the washing machine in the rental unit? If so, what if any damages have the tenants suffered as a result? Are the landlords owed rent money?

Background and Evidence

The rental unit is a three bedroom townhouse. There is a written tenancy agreement. The tenancy started in October 2019 for a one year fixed term. Though the stated rent was \$2500.00 per month, the parties agree that they had settled on \$2400.00 for the first six months and \$2500.00 thereafter.

Pending the hearing of these two applications the tenants, with forewarning to the landlords, vacated the premises at the end of May and returned the keys on June 4, 2019.

The landlords continue to hold the \$1250.00 security deposit.

Mr. V. the landlord testifies that the tenants were \$1900.00 short for March rent, thus the Notice to End Tenancy. He says the tenants paid April rent in full but not May rent. He says the tenants stated they had deposited the March rent at his bank but he later attended at the bank with the tenant Mr. K. and there is no record of it. There may have been an error in the account number the landlords provided to the tenants.

Mr. K. the tenant testifies that he had offered rent to the landlords in the form of certified cheques but they demanded cash. He says he offered rent payment on the condition that the landlords withdraw the ten day Notice but they refused and so rent was not paid. He says that the certified cheques he had issued have been effectively reversed and he is not out of pocket.

Mr. K. says that the washing machine that came with the rental unit was leaking in October. The landlords quickly attended to repair but it failed again in early 2019, perhaps due to a problem with the "drum." Then, the landlords refused to attend to repair until they returned from out of country six or seven weeks into the future. The appliance was never repaired.

In response the landlord Mr. K. says the tenants only started complaining about the washing machine and other things when they stopped paying rent on time and he began demanding payment. He denies there was any problem with the rental unit or the appliances.

### Analysis

#### The Washing Machine

I dismiss this claim. There is no objective evidence before me in the nature of a serviceman's opinion or the like to conclude the washing machine required repair. Further, there is no direct evidence of loss, laundry receipts for example, to show that the tenants incurred any cost. In light of the remark to the landlords made by the tenant Ms. K. in her April 27 text to them, namely: "... I understand you have trust issues because of my husbands [sic] dishonesty but I promise I am not the same as him ..." I consider it unwise to accept the tenant Mr. K.'s testimony on this item without reasonable corroboration.

#### Rent

Whether or not the tenants presented rent payments by certified cheque or deposit and whether or not the landlord Mr. V. acted unreasonably in refusing payment in a certain manner or upon certain conditions, the fact remains that rent has gone unpaid.

I find that the tenants owe the \$1900.00 balance of March rent and the full \$2500.00 of May rent.

I dismiss the landlords' claim for June rent as that claim is premature. The landlords might still obtain some rent from a new tenant for that period. I grant the landlords leave to re-apply in that regard.

#### Other

The landlords' monetary order worksheet discloses an amount for a strata fine. I heard no evidence about that claim and so it is dismissed.

Conclusion

The tenants' application is dismissed.

The landlords are entitled to a monetary award of \$4400.00 plus recovery of the \$100.00 filing fee paid for their application. I authorize them to retain the \$1250.00 security deposit in reduction of the amount awarded. They will have a monetary order against the tenants for the remainder of \$3250.00.

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: June 13, 2019

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Residential Tenancy Branch