



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MT, OPRM-DR

### Introduction

This hearing involved cross applications made by the parties. On June 19, 2019, the Tenants applied for a Dispute Resolution proceeding seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”) and seeking more time to cancel the Notice pursuant to Section 66 of the *Act*.

On July 4, 2019, the Landlords made an Application for Dispute Resolution seeking an Order of Possession for unpaid rent pursuant to Section 46 of the *Act* and seeking a Monetary Order for unpaid rent pursuant to Section 67 of the *Act*.

The Landlord attended the hearing with J.J. attending as an agent for the Landlord. However, the Tenants did not attend the hearing. All in attendance provided a solemn affirmation.

J.J. advised that the Notice of Hearing package was served to the Tenants by registered mail; however, she was not sure of the exact date and she did not have a registered mail tracking number to confirm this service. Based on this undisputed testimony though, I am satisfied that the Landlords served the Tenants with the Notice of Hearing package in accordance with Section 89 of the *Act* and that the Tenants were deemed to have received this package.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Are the Landlords entitled to an Order of Possession for unpaid rent?
- Are the Landlords entitled to a Monetary Order for unpaid rent?
- Are the Landlords entitled to recover the filing fee?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

J.J. advised that there was no written tenancy agreement, but the tenancy started on April 1, 2019. Rent was established at \$1,800.00 per month, due on the first day of each month but rent was increased to \$2,000.00 per month due to the provision of a garage. A security deposit of \$900.00 was also paid. She stated that the tenancy ended when the Tenants vacated the rental unit on August 6, 2019.

She submitted a copy of the Notice that indicated it was served in person to the Tenants on June 10, 2019 and that \$2,000.00 was outstanding on June 1, 2019. The Notice also indicated that the effective end date of the tenancy was June 15, 2019. However, this Notice was not signed by the Landlords.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlords must be signed and dated by the Landlords, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

With respect to the Notice served to the Tenants on June 10, 2019, I have reviewed this Notice to ensure that the Landlords have complied with the requirements as to the form and content of Section 52 of the *Act*.

In reviewing this Notice, the undisputed evidence is that it was not signed pursuant to Section 52 of the *Act*. Therefore, I am not satisfied of the validity of the Notice as I do not find that it complies with that Section of the *Act*. Therefore, I find that the Notice of June 10, 2019 is of no force and effect. With respect to the Landlords' request for an Order of Possession, as the Tenants have vacated the rental unit prior to the hearing, this is a moot point and an Order of Possession is not necessary.

With respect to the Landlord's claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

Regarding the Landlord's claim for lost rent, the undisputed evidence is that the Tenant did not pay rent for June 2019. J.J. confirmed that there was no written tenancy agreement, but she advised that rent was \$1,800.00 initially. While she stated that rent was increased to \$2,000.00 per month by mutual consent, based on the evidence presented, I am not satisfied of this nor am I satisfied that this complies with the Sections of the *Act* pertaining to rent increases. As such, I find that the Tenants are responsible for June 2019 rent and I grant the Landlords a Monetary Order in the amount of **\$1,800.00** only. The Landlords' claim for the additional \$200.00 is dismissed with leave to reapply.

As the Tenants did not attend the hearing, I dismiss their Application without leave to reapply.

### Conclusion

Based on the above, I hereby order that the 10 Day Notice to End Tenancy for Unpaid Rent of June 10, 2019 to be cancelled and of no force or effect. However, as the Tenants have vacated the rental unit, an Order of Possession is not necessary to be granted.

The Landlords are provided with a Monetary Order in the amount of **\$1,800.00** in the above terms, and the Tenants must be served with **this Order** as soon as possible. Should the Tenants 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.

The Landlords' Application for the additional \$200.00 is dismissed with leave to reapply.

Furthermore, the Tenants' 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: August 13, 2019

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Residential Tenancy Branch