



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *OPR, CNR, OLC, PSF, RR, RP, LAT, 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 for a monetary order for unpaid rent and for the recovery of the filing fee.

The tenant applied to cancel the notice to end tenancy for non-payment of rent and for more time to do so. The tenant also applied for a monetary order for compensation for loss under the *Act* and for an order directing the landlord to comply with the *Act*, provide services, reduce rent and allow the tenant to change the locks.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord represented himself and was accompanied by his agent. The tenant was accompanied by a social worker.

As both parties were in attendance, I confirmed service of documents. The parties confirmed receipt of the other's application for dispute resolution and evidence. I find that evidence was served to both parties in accordance with sections 88 and 89 of the *Act*.

The tenant applied for additional time to dispute the notice to end tenancy. The landlord served the notice on June 28, 2019 by posting the notice on the door to the rental unit. Accordingly the tenant is deemed to have received it three days later on July 01, 2019. The tenant made this application on July 05, 2019 which is within the legislated time frame of 5 days after receipt of the notice to end tenancy.

RTB Rules of Procedure 2.3 states that if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply. In this regard I find the tenant has applied for a monetary order and for an order for the landlord to comply with the *Act*, provide services, change locks and reduce rent. As these sections of the tenant's application are unrelated to the main section which is to cancel the 10-day notice, I dismiss these sections of the tenant's claim with leave to reapply. Accordingly this hearing only dealt with the tenant's application to set aside the notice to end tenancy.

### **Issues to be decided**

Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside?

### **Background and Evidence**

The background facts are generally undisputed. The tenancy started on February 01, 2019 and the current monthly rent is \$950.00 payable on the first of the month.

The landlord stated that the tenant owed rent in the amount of \$150.00 for June 2019. On June 28, 2019, the landlord served the tenant with a notice to end tenancy for \$150.00 in unpaid rent. The tenant disputed the notice in a timely manner and continued to occupy the rental unit without paying rent. The landlord stated as of the date of this hearing, the tenant owes rent for the months of June (\$150.00), and July (\$950.00) and August (\$950.00). The tenant agreed that she owed rent in the total amount of \$2,050.00.

The landlord has applied for an order of possession to be effective immediately and for a monetary order in the amount of \$2,050.00 plus \$100.00 for the filing fee.

### **Analysis**

Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent or dispute the notice by making application for dispute resolution. If the tenant does not pay rent or dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date.

Based on the sworn testimony and documentary evidence of both parties, I find that the tenant is deemed to have received the notice to end tenancy for unpaid rent, on July 01, 2019 and did not pay rent within five days of receiving the notice to end tenancy and the time to do so has expired. The tenant agreed that she owed a total of \$2,050.00 in unpaid rent for the months of June, July and August 2019.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the notice. Pursuant to section 55(2), I am issuing a formal order of possession effective two days after service on the tenant. The order may be filed in the Supreme Court for enforcement.

Since the landlord has proven his case, I award the landlord the recovery of the filing fee of \$100.00. Over all the landlord has established a total claim of \$2,150.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective 2 days after service on the tenant and a monetary order in the amount of \$2,150.00

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: August 30, 2019

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Residential Tenancy Branch