



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MT, FFT, OPRM-DR, FFL

### Introduction and Preliminary Matters

This hearing dealt with cross applications filed by the parties. On September 11, 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”), seeking more time to cancel the Notice pursuant to Section 66 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*. On September 18, 2019, this Application was set down for a participatory hearing on October 18, 2019 at 9:30 AM.

On September 19, 2019, the Landlord applied for a Direct Request proceeding seeking an Order of Possession for unpaid rent pursuant to Section 46 of the *Act*, seeking a Monetary Order for unpaid rent pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*. On September 25, 2019, this Application was set down for a participatory hearing to be heard as a cross application with the Tenants’ Application.

The Tenants did not attend the 37-minute hearing. However, the Landlord did attend the hearing. All in attendance provided a solemn affirmation.

As the Tenants did not attend the hearing, I dismiss their Application without leave to reapply. The Landlord advised that the Tenants vacated the rental unit on September 30, 2019. As the Tenants have vacated the rental unit, an Order of Possession is not necessary to be granted.

With respect to the Landlord’s Application for unpaid rent, the Landlord submitted documentation that she believed allowed her to keep the security deposit to put towards

debts owed as well as a portion of unpaid rent. However, this documentation updating the amounts outstanding was served to the Tenants at the dispute address on October 9, 2019. Firstly, this evidence was not served to the Tenants within the timeframe requirements of Rule 3.14 of the Rules of Procedure. Secondly, this evidence was served to the Tenants at an address that they no longer resided at. As I am not satisfied that the Tenants were served this evidence, I have dismissed the Landlord's monetary claims with leave to reapply.

As the Tenants and the Landlord were not successful in their Applications, I find that neither parties are entitled to recover the \$100.00 filing fee paid for their respective Applications.

### Conclusion

Based on the above, I dismiss the Tenants' Application without leave to reapply. As the Tenants have vacated the rental unit, an Order of Possession was not necessary to be granted. Furthermore, I dismiss the Landlord's Application for monetary compensation with 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: October 18, 2019

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Residential Tenancy Branch