



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MT

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by Tenant L.M. on August 29, 2019 (the "Application"). The Tenant applied to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 19, 2019 (the "Notice"). The Tenant also sought more time to file the dispute.

Tenant D.A. called into the hearing first and advised of the following. She is a tenant of the rental unit. She has not been able to stay at the rental unit since August 08, 2019 given an incident with her mother, Tenant L.M. Her possessions are still at the rental unit. Tenant L.M. filed the Application and the Landlord let her know about it. She submitted a request to be added to the Application through the Landlord.

Tenant L.M. called into the hearing late. She advised that she lives at the rental unit but does not rent. She mentioned an offer to purchase. She took the position that Tenant D.A. is not a tenant of the rental unit.

The Landlord called into the hearing late. She took the position that both Tenants are tenants in relation to the rental unit.

I explained the hearing process to the Tenants who did not have questions when asked. The parties provided affirmed testimony.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence and no issues arose.

I heard the parties on whether there is a tenancy agreement in this matter.

The Landlord testified as follows. Tenant L.M. approached her in August of 2017 asking to rent the unit for her and her daughter, Tenant D.A. She had a business relationship with Tenant L.M. The Landlord entered into a verbal tenancy agreement with the Tenants. It was agreed the Tenants would pay \$1,300.00 in rent by the first day of each month. It was agreed the Tenants would pay a \$650.00 security deposit. Tenant L.M. gave her a cheque for the security deposit, first month's rent and second month's rent. The cheque bounced due to insufficient funds. The Tenants never paid rent since. She thought the Tenants were only going to stay temporarily. Some time last year or at the beginning of this year, Tenant L.M. and her entered into a contract for Tenant L.M to purchase the rental unit; however, Tenant L.M. did not complete the purchase.

Tenant L.M. testified as follows. Most of what the Landlord said is correct. She asked the Landlord not to cash the initial cheque until she sold her unit. The cheque was to purchase the rental unit, not for rent and the security deposit. She had an agreement with the Landlord to purchase the rental unit, but the Landlord changed her mind about this. She never purchased the rental unit. She has never paid rent. This was not a rental.

Tenant D.A. testified as follows. She moved into the rental unit in August of 2017. She entered into a verbal tenancy agreement with her mother and the Landlord. The parties agreed the Tenants would pay \$1,300.00 in rent by the first day of each month. Tenant L.M. provided a cheque to the Landlord for the security deposit, first month's rent and second month's rent. This is noted in the memo portion of the cheque. She lived in the rental unit up until the incident with her mother in August.

The Landlord had submitted a copy of the cheque from Tenant L.M. dated August 14, 2017 for \$3,375.00. The memo line on the cheque indicates it is for rent for the rental unit from August to October 2017. Tenant L.M. acknowledged it is her signature on the cheque.

The Notice is addressed to both Tenants.

I prefer the testimony of the Landlord and Tenant D.A. over that of Tenant L.M. in relation to the tenancy agreement. Both the Landlord and Tenant D.A. agree about the details of the tenancy agreement. The cheque submitted supports their testimony and conflicts with the testimony of Tenant L.M. Tenant L.M. did not submit any documentary evidence to support her position which would have been available given she stated that there was a contract of purchase and sale between the parties at the outset.

I am satisfied there is a verbal tenancy agreement between the parties in relation to the rental unit.

At the end of the hearing, Tenant L.M. said she is willing to vacate the rental unit but needs time to do so. Given this comment, I advised the parties of the settlement option pursuant to section 63(1) of the Act which allows an arbitrator to assist the parties to settle the dispute.

I explained the following to the parties. Settlement discussions are voluntary. If they chose not to discuss settlement that was fine, I would make a final and binding decision in the matter. If they chose to discuss settlement and did not come to an agreement that was fine, I would make a final and binding decision in the matter. If they did come to an agreement, I would write out the agreement in my written decision and make any necessary orders. The written decision would become a final and legally binding agreement and none of the parties could change their mind about it later.

The parties did not have questions about the above and agreed to discuss settlement.

Prior to ending the hearing, I confirmed the terms of the settlement agreement with the parties. I told the parties I would issue an Order of Possession. The parties confirmed they were agreeing to the settlement voluntarily and without pressure.

#### Settlement Agreement

The Landlord and Tenants agree as follows:

1. The Notice is cancelled.
2. The tenancy will end and all Tenants and occupants will vacate the rental unit no later than 5:00 p.m. on November 15, 2019.
3. All rights and obligations of the parties will continue until the tenancy ends at 5:00 p.m. on November 15, 2019.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

The Landlord is issued an Order of Possession for the rental unit which is effective at 5:00 p.m. on November 15, 2019. If the Tenants fail to vacate the rental unit in

accordance with the settlement agreement set out above, the Landlord must serve the Tenants with this Order. If the Tenants fail to vacate the rental unit in accordance with the Order, the Order may be enforced in the Supreme Court as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: October 28, 2019

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Residential Tenancy Branch