



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, RR, RP, MNDCT, PSF  
OPR, MNRL, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking:

- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”);
- An order for the Landlord to complete repairs;
- An order for the Landlord to provide services or facilities;
- A rent reduction; and
- Compensation for monetary loss or other money owed.

I note that section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

This hearing also dealt with a Cross-Application for Dispute Resolution (the “Application”) that was filed by the Landlords under the *Residential Tenancy Act* (the “Act”), seeking:

- An Order of Possession based on the 10 Day Notice;
- Outstanding rent; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Tenant, and both Landlords, all of whom provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of

Procedure (the “Rules of Procedure”); however, I refer only to the relevant facts, evidence and issues in this decision.

At the request of the parties, copies of the decision and any orders issued in their favor will be emailed to them at the email addresses provided in their respective Applications.

### Preliminary Matters

#### **Preliminary Matter #1**

The Tenant stated that they accidentally included their three minor children as tenants on the application. I find that the minor children are occupants of the rental unit, rather than tenants, and I therefore amended the Application to remove them as Tenants so that the Application correctly reflects the parties.

#### **Preliminary Matter #2**

In their Application the Tenant sought multiple remedies under multiple sections of the *Act*, several of which were unrelated to one another. Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As the Tenant applied to cancel a 10 Day Notice and the Landlords applied for an order of possession and recovery of unpaid rent in relation to the 10 Day Notice, I find that the priority claims relate to whether the tenancy will continue or end and the payment of rent. I find that the other claims by the Tenant are not sufficiently related to the 10 Day Notice or the reasons for which a tenant may lawfully withhold rent under the *Act*, and I therefore exercise my discretion to dismiss the following claims with leave to reapply:

- Tenant’s claim for an order for the Landlord to complete repairs;
- Tenant’s claim for an order for the Landlord to provide services or facilities;
- Tenant’s claim for a rent reduction; and
- Tenant’s claim for compensation for monetary loss or other money owed.

### **Preliminary Matter #3**

Both parties agreed that the tenancy ended on February 1, 2020, and that the Landlord has possession of the rental unit. As a result, the hearing proceeded based only on the issue of unpaid rent pursuant to the 10 Day Notice and recovery of the filing fee.

#### Issue(s) to be Decided

Are the Landlords entitled to monetary compensation for unpaid rent?

Are the Landlord's entitled to recovery of the filing fee?

#### Background and Evidence

All parties agreed that the tenancy began on March 20, 2019, that rent in the amount of \$2,200.00 was due on the first day of each month, and that the Tenant paid a \$1,100.00 security deposit, which the Landlord's still hold.

The Tenant acknowledged that they did not pay rent on January 1, 2020, as they believed they were entitled to a rent reduction and other monetary compensation and had filed a dispute with the Residential Tenancy Branch (the "Branch") to that effect. The Landlords stated that when rent was not paid as required on January 1, 2020, they served the Tenant with a 10 Day Notice. All parties agreed that as of the date of the hearing, January rent remains unpaid.

When asked, the Tenant stated that they had not overpaid a security or pet damage deposit, had not overpaid rent, had not received a rent increase in excess of the allowable amounts, did not have a previous order from the Branch allowing them to deduct all or a portion of the rent, had not completed and paid for emergency repairs in compliance with section 33 of the *Act*, and had not received a Notice to End Tenancy from the Landlords that would entitle them to any amount of free rent. Both the Tenant and the Landlords acknowledged that there was no agreement for the Tenant to deduct or withhold any amount of rent.

All parties agreed that condition inspections were completed at the start and end of the tenancy and that copies of the condition inspection reports had been exchanged in compliance with the *Act* and regulations. The Parties also agreed that the Tenant had

provided their forwarding address in writing on February 1, 2010, which is the date the tenancy ended.

### Analysis

Section 26 of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under this *Act* to deduct all or a portion of the rent.

All parties agreed that January rent in the amount of \$2,200.00 remains unpaid. Although I appreciate that the Tenant truly believed that they were entitled to withhold rent due to their filling of an Application with the Branch seeking a rent reduction, compensation for monetary loss or other money owed, and an order for the Landlord to complete repairs and provide services and facilities, ultimately they acknowledged in the hearing that none of the circumstances under which they would be entitled by the *Act* to withhold or reduce rent existed. As a result, I find that the rent in the amount of \$2,200.00 was due to be paid by the Tenant on January 1, 2020, that the Tenant did not have a right under the *Act* to withhold the rent, and that the Landlord is therefore entitled to \$2,200.00 in outstanding rent.

As the Landlords were successful in their Application and pursuant to section 72 of the *Act*, I find that the Landlords are entitled to recovery of the \$100.00 filing fee. I also authorize the Landlord's to retain the Tenant's \$1,100.00 security deposit in partial repayment of the \$2,300.00 owed to the Landlords for rent and the filing fee.

The Landlords are therefore entitled to a Monetary Order in the Amount of \$1,200.00: \$2,200.00 for outstanding rent, and \$100.00 for recovery of the filing fee, less the \$1,100.00 security deposit retained by the Landlords.

### Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlords a Monetary Order in the amount of \$1,200.00. The Landlords are provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant 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.

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: March 4, 2020

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Residential Tenancy Branch