



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LEQAMEL DEVELOPMENT LIMITED  
PARTNERSHIP and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPU, OPC, MNRL-S

### Introduction

On May 29, 2020, the Landlords applied for a Dispute Resolution proceeding seeking an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”), seeking an Order of Possession based on a One Month Notice to End Tenancy for Cause pursuant to Section 47 of the *Act*, and seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*.

C.K., R.S., and D.D. attended the hearing as agents for the Landlord. The Tenant attended the hearing as well. All in attendance provided a solemn affirmation.

C.K. advised that she served the Tenant the Notice of Hearing package by posting it to the railing by the Tenant’s door on May 29, 2020 with a witness. However, the proof of service form submitted does not have confirmation from a witness that this was posted as alleged. The Tenant advised that she did not receive this package, and only found out about the hearing by contacting the Residential Tenancy Branch. Despite there being a dispute between the parties about service of this package, the hearing continued and judgement was reserved on this matter.

The Tenant advised that she did not serve her evidence to the Landlord. As a result, this was not considered when rendering this Decision.

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 an Order of Possession for cause?
- Are the Landlords entitled to monetary compensation?

### Background, Evidence, and Analysis

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.

All parties agreed that the tenancy started on February 1, 2020. Rent was currently established at \$1,450.00 per month and was due on the 31<sup>st</sup> day of each month. A security deposit of \$725.00 was also paid.

C.K. advised that she served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and a One Month Notice to End Tenancy for Cause to the Tenant in May 2020; however, she was advised that due to the state of emergency, there was an eviction moratorium and these notices were not available for service. She stated that the state of emergency was over when she served these notices and she has proof that this state of emergency was lifted. Furthermore, she advised that she served these notices to the Tenant; however, neither notice was submitted as documentary evidence. It was later determined that neither of these notices were actually served to the Tenant, but she mistakenly believed that the Proof of Service forms that she served were the required notices. She also stated that the Tenant was served letters, written by the Landlord, to end the tenancy. She was advised that the Landlord was required by the *Act* to use an approved form to end the tenancy, and that neither the Proof of Service forms nor their written letters were approved forms to end a tenancy under the *Act*.

C.K. also advised that the Landlords were seeking monetary compensation in the amount of **\$4,408.00** for unpaid rent.

### 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 a Landlord must be signed and dated by the Landlord, 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.

When reviewing the Landlords' evidence, with respect to the notices to end tenancy served to the Tenant, I have reviewed the evidence to ensure that the Landlords have complied with the requirements as to the form and content of Section 52 of the *Act*. The evidence that the Landlords wanted to rely on to end the Tenant's tenancy were clearly not in the approved form, pursuant to Section 52(e) of the *Act*.

As such, I am not satisfied of the validity of the notices as they do not comply with Section 52 of the *Act*. Therefore, I find that the notices to end the Tenant's tenancy are of no force and effect.

With respect to the Landlords' request for monetary compensation for rent arrears, Section 89(1) outlines the manners with which the Notice of Hearing package for an Application for monetary compensation must be served in order for these claims to be addressed. As the Notice of Hearing package was served by posting it to the door and not in accordance with Section 89(1), the claims for monetary compensation were dismissed with leave to reapply.

### Conclusion

Based on the above, I hereby order that the notices to end tenancy that the Landlords served are cancelled and of no force or effect, as they are not valid notices pursuant to the *Act*. This tenancy continues until ended in accordance with the *Act*.

The Landlords' claims for monetary compensation are dismissed 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: June 22, 2020

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Residential Tenancy Branch