



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, DRI, RR, OLC

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlords' two Ten Day Notices to End Tenancy for Unpaid Rent or Utilities, dated May 1 and May 13, 2021 ("two 10 Day Notices"), pursuant to section 46;
- an order regarding a disputed additional rent increase of \$2,250.00, pursuant to section 43;
- an order allowing the tenants to reduce rent of \$700.00 for services, facilities or repairs agreed upon but not provided, pursuant to section 65; and
- an order requiring the landlords to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62.

The two tenants did not attend this hearing, which lasted approximately 35 minutes. The two landlords, female landlord ("landlord") and "male landlord" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The male landlord only attended at the end of this hearing to ask questions.

This hearing began at 11:00 a.m. and ended at 11:35 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I monitored the teleconference line and confirmed from the teleconference system that the two landlords and I were the only people who called into this teleconference.

At the outset of the hearing, I informed the landlord that Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules") does not permit recording of this hearing by anyone. The landlord affirmed, under oath, that she would not record this hearing.

I explained the hearing process to both landlords. They had an opportunity to ask questions. They did not make any adjournment or accommodation requests.

The landlord stated that she did not receive the tenants' application for dispute resolution hearing package. She said that she was given the access code to call into this hearing when she called the RTB.

#### Preliminary Issue – Dismissal of Tenants' Application

Rule 7.3 of the RTB *Rules* provides as follows:

*7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

In the absence of any evidence or submissions from the tenants, I order the tenants' entire application dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, if I dismiss the tenants' application to cancel two 10 Day Notices, the landlords are entitled to an order of possession if the notices meet the requirements of section 52 of the *Act*.

The landlord stated that she did not require an order of possession because the tenants moved out of the rental unit on July 1, 2021, and the landlords took back possession of it.

#### Preliminary Issue – Unpaid Rent

Section 55(1.1) of the *Act* states the following:

*55(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [landlord's notice: non-payment of rent], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.*

Effective on March 25, 2021, the landlords are entitled to a monetary order for unpaid rent without filing a separate application. The tenants filed this application on May 3, 2021. As noted above, the tenants' application to cancel the two 10 Day Notices was dismissed without leave to reapply.

The landlord was provided approximately 35 minutes during this hearing to search for three different RTB file numbers relating to this tenancy. Those file numbers appear on the front page of this decision. The landlord located two file numbers for the tenants' applications for the return of their security deposit. The third file number relates to the landlords' application, which the landlord confirmed was filed on August 23, 2021 for a monetary order for two months of unpaid rent for May and June 2021, damages, and the security deposit. She said that the unpaid rent was included in the monetary order worksheet provided as evidence by the landlords. She stated that she was told by the RTB that this file was still being processed and a hearing date had not yet been set.

I informed the landlords that since they already filed a separate monetary application for two months of unpaid rent, prior to this hearing, it would be dealt with at the future hearing, and not this current hearing. They confirmed their understanding of same.

### Conclusion

The tenants' entire application is dismissed without leave to reapply. The landlords are not entitled to an order of possession.

I do not issue a monetary order for unpaid rent to the landlords, as they have already filed a separate application against the tenants for same.

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: September 07, 2021

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Residential Tenancy Branch