



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, PSF, LAT, LRE, OLC, FFT  
OPR-DR, MNR-DR

### Introduction

This hearing was convened by way of conference call concerning applications made by the tenants and by the landlord. The tenants have applied for the following relief:

- an order cancelling a notice to end the tenancy for unpaid rent or utilities;
- an order that the landlord provide services or facilities required by the tenancy agreement or the law;
- an order permitting the tenants to change the locks to the rental unit;
- an order limiting or setting conditions on the landlord's right to enter the rental unit;
- an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement; and
- to recover the filing fee from the landlord for the cost of the application.

The landlord has applied by way of the Direct Request process for an Order of Possession and a monetary order for unpaid rent or utilities, which was referred to this participatory hearing.

The landlord and one of the tenants attended the hearing, and the tenant also represented the other named tenant. The parties each gave affirmed testimony and were given the opportunity to question each other and to give submissions.

During the course of the hearing, the parties agreed that the tenants have vacated the rental unit and the landlord has possession. Therefore, I dismiss the tenants' application in its entirety as well as the landlord's application for an Order of Possession.

Also, during the course of the hearing the landlord indicated that none of the tenants' evidentiary material had been received by the landlord. The tenant stated that all evidence was sent to the landlord by email on July 24, 2021. No evidence of that has been provided, however in viewing the tenants' evidence I find that it is no longer relevant. The parties agreed that the landlord has provided evidence to the tenants. All evidence of the landlord has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

The issue remaining to be decided is:

- Has the landlord established a monetary claim as against the tenants for unpaid rent?

### Background and Evidence

**The landlord** testified that the tenants entered into a tenancy agreement with the previous owner for a fixed-term tenancy to commence on August 1, 2020 and ending on September 1, 2021. The landlord purchased the rental unit in February, 2021 and a new tenancy agreement was entered into by the parties for a fixed-term to commence on February 1, 2021 and expiring on September 1, 2021. Rent in the amount of \$950.00 was payable on the 1<sup>st</sup> day of each month, and that amount remained for the second tenancy agreement. The landlord received a security deposit in the amount of \$475.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a basement suite on 1 side of a duplex. The landlord does not reside on the property but a daughter of the landlord resides in another unit on the property. A copy of the latest tenancy agreement has been provided by the landlord for this hearing.

The landlord further testified that on July 3, 2021 the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by handing it in person to one of the tenants, and a copy has been provided for this hearing. It is dated July 3, 2021 and contains an effective date of vacancy of July 13, 2021 for unpaid rent in the amount of \$950.00 that was due on July 1, 2021.

The tenants vacated the rental unit without notice to the landlord, but the landlord is not sure of the date. The tenants were seen on camera moving items out of the rental unit on August 4, 2021, and the landlord found out on August 10, 2021 that the tenants had vacated without paying rent for July or August, 2021.

The landlord's other daughter resided in the rental unit for most of the month of September, 2021 and the rental unit was re-rented for October 1, 2021. The landlord does not recall when the rental unit was advertised for rent.

The landlord claims 2 months' rent, or \$1,900.00.

**The tenant** testified that the tenants moved out on August 1, 2021 and denies moving items out of the rental unit on August 4, 2021, but returned to collect mail that day.

The tenants didn't pay rent for July, 2021 and the landlord still has the security deposit, so in the tenant's opinion, at best they owe half a month's rent.

Around July 20 or 21 the tenants posted a letter to the front door of the rental unit stating that the tenants would vacate by July 31, 2021, but that ended up being August 1, 2021. The landlord had threatened the tenants so the tenants didn't want to have anything to do with the landlord, so the notice was posted to the door.

On August 4, 2021 when the tenant arrived to get the mail a notice of inspection was posted, which was scheduled for August 6, 2021.

The tenant agrees that the landlord should keep the security deposit in partial satisfaction of the unpaid rent for July, 2021.

### Analysis

Firstly, the tenant does not dispute that no rent was paid for July, 2021 and therefore, I find that the landlord has established a claim of \$950.00.

The tenant disputes the landlord's testimony that the tenants didn't vacate until after August 4, 2021, but that the tenants moved out on August 1. The tenant also testified that a note was left on the front door of the rental unit on July 20 or 21 notifying the landlord that the tenants would vacate on July 31, 2021. However, a tenant must give a notice to end a tenancy before rent is payable and must not be effective until the end of the following month. Therefore, at that point any notice that the tenants gave would not legally be effective until August 31, 2021. Therefore, I find that the tenants owe rent for the month of August, 2021 in the amount of \$950.00.

The tenant agreed during the hearing that the landlord keep the security deposit, and I so order.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

I order the landlord to keep the \$475.00 security deposit in partial satisfaction of the claim, and I grant a monetary order in favour of the landlord as against the tenants for the difference in the amount of \$1,525.00 ( $\$950.00 + \$950.00 = \$1,900.00 - \$475.00 = \$1,425.00 + \$100.00 = \$1,525.00$ ).

### Conclusion

For the reasons set out above, the tenants' application is hereby dismissed in its entirety without leave to reapply.

The landlord's application for an Order of Possession is dismissed without leave to reapply.

I hereby order the landlord to keep the \$475.00 security deposit and I grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,525.00.

This order is final and binding and may be enforced.

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: November 02, 2021

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Residential Tenancy Branch