



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPN, OPC, MNDCL-S, FFL

### Introduction

The Landlord filed an application for dispute resolution (the “Application”) on June 19, 2022 seeking

- an order of possession for the Tenant’s notice to end tenancy (the “Tenant’s Notice”)
- an order of possession for the One-Month Notice to End Tenancy for Cause (the “One-Month Notice”)
- compensation for monetary loss or other money owed
- reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on November 4, 2022. The Landlord and one of the named Tenants attended the conference call hearing. I explained the process and offered each party the opportunity to ask questions. Both parties had the opportunity to present oral testimony and evidence during the hearing.

### Preliminary Matter – order of possession withdrawn

The rental unit in question was occupied by two co-tenants, MD and RS. They were both listed as Respondents on the Landlord’s Application. The Tenant MD attended the hearing; the Tenant RS did not attend.

At the start of the hearing, the Landlord briefly summarized the situation. The tenant MD moved out of the unit on June 18, 2022. The other Tenant RS moved out from the rental unit on July 1, 2022. The Tenant MD in the hearing confirmed this information.

Based on the Landlord’s testimony in the hearing, I amend their Application to withdraw the application for an order of possession because both tenants have already moved out from the rental unit.

Preliminary Matter – service of Notice of Dispute Resolution Proceeding to Tenants

In the hearing the Landlord stated they served the Notice of Dispute Resolution Proceeding (the “Notice”) to each of the former Tenants, via email. The Tenant MD in the hearing confirmed they received the Notice in this manner. With this confirmation, I apply s. 71 of the Act to determine that the Landlord sufficiently served the Notice to both Tenants.

Issues to be Decided

Is the Landlord entitled to compensation for other money owed, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to recover the filing fee for this Application, pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord and Tenants signed the agreement on October 6, 2021 for the start of the tenancy on November 1, 2021. The tenancy was for a fixed term, to end on November 1, 2021. The monthly rent was \$2,500 payable on the first of each month. The Tenants paid a security deposit of \$1,250 and a pet damage deposit of \$500.

A 8-page Addendum forms part of the agreement. The Tenant MD signed this document on October 6, 2021, and the Tenant RS signed on October 7, 2021. It contains a “Liquidated Damages” clause at #18

If the tenant terminates the tenancy before the expiry, a sum of equivalent to Two Months rent will be charged by the landlord and the tenant will pay this amount immediately, as a service charge for tenancy changeover costs, such as advertising, interviewing, administration and re-renting, for this short term tenancy. This is not a penalty. The Tenant is still liable for all terms and conditions of the Tenancy Agreement.

In the hearing, the Tenant stated they knew about this clause. They confirmed the details of their own move out from the rental unit that was an agreement with the Landlord. The Landlord described the other process for the other Tenant as being “like an eviction”. For this, they served the One-Month Notice.

The Landlord confirmed they returned the deposits to both Tenants. They deducted an amount for utilities owing.

### Analysis

As provided for in the *Residential Tenancy Branch Policy Guidelines* –in guideline 13 on ‘Rights and Responsibilities of Co-tenants’ – co-tenants are jointly and severally responsible for meeting a tenancy agreement’s terms. Thus stated, the Tenant MD and RS are jointly and severally liable for debts related to the tenancy.

I find the tenancy ultimately ended through an eviction. The Tenant RS did not leave the rental unit on their own, as did MD. I find the Landlord evicted the Tenants with the One-Month Notice. I find as fact the Landlord ended the tenancy; therefore, I find the clause #18 in the Addendum between the parties does not apply. This was not the situation where both Tenants sought to end the tenancy.

I dismiss the Landlord’s Application in its entirety for this reason, without leave to reapply. The Landlord was not successful in this Application; therefore, I grant no amount for reimbursement of the Application filing fee.

### Conclusion

I dismiss the Landlord’s Application in its entirety, without leave to reapply.

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

Dated: November 10, 2022

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Residential Tenancy Branch