



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, LRE, RP, FF, OPR, MNR, FF

### Introduction

This hearing was convened in response to applications by the landlord and the tenants.

The landlords' application is seeking orders as follows:

1. For an order of possession based on unpaid
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on June 24, 2022;
2. To have the landlord make repairs to the rental unit;
  1. To suspend or set conditions on the landlord's right to enter the rental unit;
  2. To have the landlord comply with the Act; and
  3. To recover the cost of filing the application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

At the outset of the hearing the tenant indicated that they vacated the rental unit on October 10, 2022. The agent for the landlord indicated that they spoke to the landlord this morning and they were unsure if the tenants have vacated, and if they did they did

not return the keys to the landlord. The tenant had no issues with the landlord receiving an immediate order of possession.

As the tenancy is over, I find the tenant's application must be dismissed as the issues identified in their application are based on the tenancy continuing.

#### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

#### Background and Evidence

The tenancy began on March 1, 2022. Rent in the amount of \$2,500.00 is payable on the first day of each month. The tenants paid a security deposit \$1,250.00.

The landlord's agent testified that the tenants did not pay rent for June, July, August, September and October 2022 and wish to recover unpaid rent for these months.

The tenant testified that they paid the landlord June 2022, rent by cash. The tenant stated that they took the money out of their account and sent the landlord text messages and when the landlord came home they walked over to the landlord's home and paid the rent, and the landlord's son counted it. Filed in evidence is a bank statement and text messages.

The tenant testified that they paid rent for July, August, September 2022, by posting cheques to the landlord's door. The tenant confirmed that those cheques were never cash. The tenant acknowledged they did not pay rent to the landlord for October 2022.

The landlord's agent testified that the landlord did not receive any cash or any cheques from the tenant.

#### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, the evidence of the tenant was they vacated the rental unit on October 10, 2022. The landlord has not verified this nor were the keys returned as required.

Therefore, I grant the landlord an immediate order of possession and if necessary change the locks.

The evidence of the tenant was rent for June 2022 was paid in cash to the landlord. The tenant has provided bank statement showing the money being withdrawn from their account and text messages showing they were making arrangement with the landlord to pay the rent. While I accept the landlord's agent denied that the tenant attended to the landlord's home and paid the cash; however, without direct testimony for the landlord and their son, I find the landlord has failed to disprove the tenant's version. Therefore, I do not grant the landlord rent for June 2022.

In this case, the landlords seeks to recover subsequent unpaid rent for July, August, September and October 2022. I find that is a reasonable as this is subsequent rent since filing their application for unpaid rent. Further, the tenant admitted that the rent cheques they alleged were posted to the landlord's door for July, August, September 2022, were not cashed. I find this supports the landlord's agent version that they were not received by the landlord. I find it highly unlikely the landlord would not cash the cheques if received. Furthermore, the tenant provided no evidence of posting the cheques to the landlord's door and confirming with landlord that they were received. The tenant also admitted rent for October 2022 was not paid

I find based on the evidence of the parties that rent for the above five months was not be paid by the tenants. Therefore, I grant the landlord a monetary order in **\$12,500.00**.

I find that the landlord has established a total monetary claim of **\$12,600.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$1,250.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$11,350.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

As the tenant was unwilling to provide the landlord with their forwarding address at the end of hearing and the landlord has not had the chance to view the condition of the rental unit to determine if the rental unit was left cleaned and undamaged by the tenants as required by the Act. I grant the landlord permission to served each of the tenants at their respective email addresses, which was confirmed at the hearing by the tenant, with any future application relating to this tenancy. The tenant was informed of

this at the hearing. I have noted their email address next to their names on the covering page of this decision.

### Conclusion

As the tenant has vacated the rental unit prior to this hearing. I dismiss their application without leave to reapply as they were related to the tenancy continuing.

The landlord is granted an immediate order of possession. The landlord is granted monetary order for the unpaid rent and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

The landlord is granted permission to serve any future application on the tenants' by email at the email addresses noted on the covering page.

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 18, 2022

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Residential Tenancy Branch