



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

## DECISION

**Dispute Codes**      **CNR / OPR-DR, MNR-DR, FFL**

### **Introduction**

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (the “**Act**”). The landlord’s application for:

- an order of possession for non-payment of rent pursuant to section 55;
- a monetary order for unpaid rent in the amount of \$6,000 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

And the tenants’ application for the cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent (the “**Notice**”) pursuant to section 46.

This matter was reconvened from a prior hearing on March 6, 2023. I issued an interim decision setting out the reasons for the adjournment on that same day (the “**Interim Decision**”). This decision should be read in conjunction with Interim Decision.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:45 pm in order to enable the tenants to call into the hearing scheduled to start at 1:30 pm. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I used the teleconference system to confirm that the landlord and I were the only ones who had called into the hearing.

The landlord testified he served that the tenants the notice of dispute resolution package and supporting documentary evidence via registered mail on February 19, 2023. He provided a Canada Post tracking number confirming this mailing which is reproduced on the cover of this decision.

### **Issues to be Decided**

Is the landlord entitled to:

- 1) an order of possession;
- 2) a monetary order for \$6,000; and
- 3) recover the filing fee.

Are the tenants entitled to an order cancelling the Notice?

### **Background and Evidence**

While I have considered the documentary evidence and the testimony of the landlord, not all details of his and arguments are reproduced here. The relevant and important aspects of his claims and my findings are set out below.

The parties entered into a written tenancy agreement starting November 15, 2022. Monthly rent is \$1,500 and is payable on the first of each month. The landlord waived any entitlement to rent for November 15 to November 30. The tenants paid the landlord a security deposit of \$750 and a pet damage deposit of \$750, which the landlord continues to hold in trust for the tenants.

The landlord testified that the tenants did not pay any rent on December 1, 2022. He testified that he served the tenants with the Notice by posting it on the door of the rental unit on December 13. The Notice specified an effective date of December 27 and specified that the tenants owed \$1,250 in rent arrears as of December 1. He testified that he agreed to reduce the tenants' rent by \$250 if they performed certain work at the rental unit. He testified that they never performed this work and stated that he would like to recover \$1,500 for December's rent.

The landlord testified the tenants have not paid any rent for the months of January, February, or March 2023. The landlord asks for a monetary order of \$4,500 representing three months unpaid rent.

### **Analysis**

I accept the landlords undisputed testimony, in its entirety. I find that he served the tenants with the notice on December 13, 2022.

Monthly rent is \$1,500, and I find that the tenants have not paid any monthly rent for the entirety of the tenancy. Based on the fact that the amount of unpaid rent specified on the Notice is \$1,250, I find that, as of December 13, 2022, the landlord did not consider the full amount of December rent to be due and owing. The landlord did not provide any evidence to support his testimony that the parties agreed to a rent reduction for December or that the tenants failed to live up to their end of that agreement. I therefore find that the amount of rent owing for December 13, 2022 is \$1,250.

I order that the tenants pay the landlord \$5,750, representing the balance of December 2022 rent plus the full amount of unpaid rent for January, February, and March 2023.

I have reviewed the Notice and find that it complies with the form and content requirements set out at section 52 of the Act. As such, the Notice is valid and I issue the landlords an order of possession effective two days after the landlord serves this decision and attached orders on the tenants.

I dismiss the tenants' application in its entirety without leave to reapply.

Pursuant to section 72(1) of the Act, as the landlord has been successful in the application, he may recover the filing fee from the tenants.

Pursuant to section 72(2) of the Act, the landlord may retain the security and pet damage deposits in partial satisfaction of the monetary orders made above.

### **Conclusion**

Pursuant to sections 67 and 72 of the Act, I order that the tenants pay the landlord \$4,350, representing the following:

Description	Total
Arrears (December 2022)	\$1,250.00
Arrears (January to March 2023)	\$4,500.00
Filing fee	\$100.00
Deposit credit	-\$1,500.00
	<b>\$4,350.00</b>

Pursuant to section 55 of the Act, I order that the tenants deliver vacant possession of the rental unit to the landlord within two days of being served with a copy of this decision and attached orders by the landlord.

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: March 28, 2023

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Residential Tenancy Branch