



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, CNR, MNR, RR, FF

### **Introduction**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent. The tenant applied for an order to cancel the notice to end tenancy and for an order directing the landlord to reduce rent. Both parties applied for the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession and a monetary order for unpaid rent and the filing fee? Is the tenant entitled to a rent reduction?

### **Background and Evidence**

The tenancy started on October 15, 2022. The monthly rent is \$5,700.00 per month, due in advance on the 15<sup>th</sup> of each month.

The landlord testified that the tenant failed to pay rent that was due on January 15, 2023. The tenant also failed to pay rent that was due on February 15, 2023. On February 17, 2023, the landlord served the tenant a notice to end tenancy for \$11,400.00 in unpaid rent. The tenant disputed the notice in a timely manner but did not pay rent and continues to occupy the rental unit. The landlord testified that at the time of the hearing the tenant owed rent for March, April, and May 2023 for a total of \$28,500.00 in unpaid rent.

The tenant testified that rent that was due on January 15 and February 15, 2023, was paid on those dates. The tenant stated that the landlord wanted rent in cash. Both parties agreed that the tenant would write up a receipt and the landlord would sign it. The tenant stated that receipts for October, November and December 2022 were provided but does not have any for January 15 and February 15, 2023.

The tenant stated that there is a doorbell video recording to prove that rent was paid for these dates. The tenant did not file the recording into evidence. The tenant agreed that no proof of payment of rent for the months of January and February 2023, was filed into evidence. The tenant also agreed that rent for March, April, and May 2023, was not paid.

The tenant stated that on March 16, 2023, there was an electrical fire in the home and since then there is no electricity in the home. The tenants use a generator. The tenant also stated that the rent included a shop which is unusable because it is an illegal shop, and the city inspectors want it to be shut down. The tenant has requested a rent reduction.

## **Analysis**

### **Landlord's application**

The tenant received the notice to end tenancy for unpaid rent, on February 17, 2023, and did not pay rent within five days of receiving the notice to end tenancy, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$28,500.00 for unpaid rent, Since the landlord is successful in their application, they are entitled to the recovery of the filing fee.

The landlord has established a claim of \$28,600.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Tenant's application

Since the tenancy is coming to an end the tenant's application for an order to reduce rent is moot. The tenant has not proven their case and therefore must bear the cost of filing his application.

**Conclusion**

I grant the landlord an order of possession effective **two days after service** on the tenant. I also grant the landlord a monetary order in the amount of **\$28,600.00**.

The tenant's application is dismissed in its entirety.

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: June 12, 2023

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Residential Tenancy Branch