



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      CNC, RP, RR.

### Introduction

The tenants apply to cancel a one month Notice to End Tenancy for cause dated July 29, 2016, for a repair order and for a rent reduction. The Notice alleges that the tenants have been repeatedly late paying rent. The Notice also contains a reference to the condition of the rental unit, however, grounds relating to that type of cause have not been checked off as applicable in the Notice.

Repeated late payment of rent is a listed ground for eviction under s. 47 of the *Residential Tenancy Act* (the “Act”).

The landlord and the tenant Mr. M.B. attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that the tenants have been repeatedly late paying rent? Does it show their entitlement to a repair order or a rent reduction?

### Background and Evidence

The rental unit is a two bedroom townhouse. The tenancy started in February 2015. The current monthly rent is \$721.00, due on the first of each month. The landlord holds a \$350.00 security deposit.

The landlord testifies that the tenants were late with rent on more than one occasion in 2015. In 2016 the failed to pay rent on time in February and a ten day Notice to End Tenancy was

issued. Again in March the tenants failed to pay rent on time and another ten day Notice was issued. For a third time, the tenants failed to pay the full rent due June 1 and again, a ten day Notice was issued.

Finally, the tenants failed to pay the balance of rent due in July and, on July 29 a fourth ten day Notice was issued. The tenants have not paid the amount demanded in that Notice nor have they applied to cancel it within five days after receipt or at all.

The tenant Mr. B. testifies that he had notified the welfare office of a rent increase in the Spring of 2016 but the welfare office failed to pay the increase to the landlord and that's why the tenants fell behind paying rent.

He testifies that there is a water leak from a fan in the bathroom of the rental unit and that the grill is off, though since the application the landlord has attended to repair. He's not sure the repair will work.

He testifies that there is mould in a closet and that the kitchen fan does not draw adequate air out of it. He states that there is popcorn like damage to the ceiling of the living room and he is concerned about asbestos.

In response the landlord says the bathroom fan issue has been fixed and there was and is no mould. She says if there is mould in a closet it's because the tenants have piled clothes in it and the lack of circulation is the cause. She says the kitchen fan has been checked and it draws adequate air away from the stove top. She says kitchen ceiling damage is a minor thing and denies any asbestos problem.

The landlord presented a series of 32 photos of the rental unit taken during an inspection September 8, 2016 to show that the tenants are keeping an unsanitary premises. The photos show that the tenants have failed to maintain even a semblance of cleanliness and order in this accommodation despite the fact that they have three young children in their care and despite the fact that they were given due notice of the September 8 inspection.

### Analysis

The fact of the tenants' neglect to perform even basic cleaning tasks is deeply disturbing. The photos, unchallenged by the attending tenant, show the tenants have utterly failed to perform simple tasks like picking up a used diaper from the floor, cleaning a red sauce that has spilled down the stove and onto the floor, washing urine stained bedding, picking up wet toilet paper from the bathroom floor, sweeping up spilled flour from the hallway/living room floor.

Yet, the tenants' lack of housekeeping efforts is not, I find, a ground fairly claimed in the landlord's Notice.

The evidence shows that the tenants have been late paying rent or the balance of rent due for the months of February, March, June and July 2016.

Residential Tenancy Policy Guideline 38, "Repeated Late Payment of Rent" states that three late payments satisfy the determination of rent being "repeatedly" late.

In this case I find that the tenants have been repeatedly late paying rent. The Notice dated July 29, 2016 was a proper Notice. The tenants' application to cancel it is dismissed. The valid Notice has resulted in the ending of this tenancy on August 31, 2016.

The landlord is entitled to an order of possession under s. 55 of the *Act*.

I dismiss the tenants' claim for a compliance order. This tenancy has ended and there would be no benefit even had they established grounds for such an order.

For the same reason I dismiss the tenants' claim for a rent reduction. Even had the tenants proved some entitlement to having their rent reduced, which I find they have not, the tenancy has ended and with it, any obligation to pay rent under the tenancy agreement, though the tenants may be responsible for occupation rent for the time they continue to occupy the premises after the tenancy ended August 31.

### Conclusion

The tenants' application is dismissed. The landlord will have an order of possession.

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: September 29, 2016

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Residential Tenancy Branch