



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OPR, MNR, MDSD & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$4652 for unpaid rent and damages
- c. An order to retain the security deposit
- d. An order to recover the cost of the filing fee

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel the 10 day Notice to End Tenancy dated October 5, 2016
- b. An order disputing an additional rent increase

A hearing was conducted by conference call in the presence of the landlord and in the absence of the tenant although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 Notice to End Tenancy was served on the Tenant by giving it to an adult person who apparently resides in the rental unit on October 5, 2016. I find that the Application for Dispute Resolution/Notice of Hearing filed by the landlord was personally served on the Tenant on October 17, 2016. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated October 5, 2016?
- b. Whether the tenant is entitled to an order disputing an additional rent increase?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to A Monetary Order and if so how much?

- e. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- f. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a month to month written tenancy agreement that provided that the tenancy would start on June 1, 2016. The tenancy agreement provided that the rent was \$850 per month payable on the first day of each month. The tenant paid a security deposit of \$425 prior to the start of the tenancy. The tenant vacated the rental unit on November 6, 2016.

The tenant(s) failed to pay the rent for the months of October (\$850 is owed) and November (\$425 is owed to November 15, 2016) and the sum of \$1275 remains owing. The tenant(s) have remained in the rental unit.

### Tenant's Application:

The tenant failed to appear at the hearing. The tenant has vacated the rental unit. As a result I ordered that the Tenant's application be dismissed.

### Landlord's Application - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the Tenant has vacated the rental unit.

### Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of October (\$850 is owed) and November (\$425 is owed to November 15, 2016) and the sum of \$1275 remains owing. I dismissed the landlord's claim for damage to the rental unit with leave to re-apply as the landlord failed to present evidence to prove he paid the amount claimed in the estimate. I granted the landlord a monetary order in the sum of \$1275 plus the sum of \$100 in respect of the filing fee for a total of \$1375.

### Security Deposit:

I determined the security deposit plus interest totals the sum of \$425. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$950.

Conclusion:

I dismissed the Tenant's application. I determined it was not necessary to consider the landlords' application for an Order for Possession. I ordered that the landlords shall retain the security deposit of \$425. I further ordered that the Tenant pay to the Landlords the sum of \$950.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: December 06, 2016

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Residential Tenancy Branch