



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNRL-S, FFL, CNR, MT, OLC, FFT

### Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67.
- authorization to retain the tenant’s security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenants requested:

- cancellation of the landlords’ 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- more time to make an application to cancel the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other.

At the outset of the hearing, counsel for the tenants advised that the tenants no longer wished to pursue their application and agree that the landlord is entitled to a 2 day order of possession; accordingly, the tenants' application is dismissed in its entirety without leave to reapply. The parties agreed that the landlord is entitled to an order of possession that takes effect at 1:00 p.m. on April 14, 2019. The landlord still wished to pursue his entire claim. Counsel advised that the tenants dispute the amount sought by the landlord.

#### Issues to be Decided

Is the landlord entitled to an Order of Possession based on the 10 Day Notice?

Is the landlord entitled to a monetary award for unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?

Is the landlord entitled to retain the tenant's security deposit in partial satisfaction of the monetary order requested?

Is the landlord entitled to recover the filing fee for this application?

#### Background and Evidence

The landlord gave the following testimony. The tenancy for unit #7 began on January 1, 2019. The monthly rent was \$1050.00 due on the first of the month and at the outset of the tenancy, the tenants paid a \$525.00 security deposit. The landlord testified that the tenants became aware unit #3 was available and moved into that unit on January 15, 2019. The rent for that unit was \$1250.00 per month. The landlord testified that the tenants paid a pet deposit of \$612.50. The landlord testified that the tenants did not pay the rent in full for the month of January. The landlord testified that on February 6, 2019 he sent the tenants a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by registered mail for \$1437.50 in outstanding rent. The landlord testified that the tenants further failed to pay rent for March and April. The landlord advised that as of today's hearing the amount of unpaid rent is \$3937.50.

The tenants gave the following testimony. AM testified that she paid the landlord \$2300.00 in cash towards the rent. AW testified that the landlord would not provide a receipt. AM testified that she agrees that there is outstanding rent, but not as much as the landlord is asking.

Analysis

Both parties agreed that the landlord is entitled to an order of possession. Pursuant to section 55 of the Act, the landlord is granted an order of possession effective at 1:00 p.m. on April 14, 2019. The tenancy is terminated.

In regards to the monetary order, the tenants testified that they were of the understanding that the landlord was only seeking an order of possession. The tenants testified that they could have provided some disputing evidence for this hearing in regards to the amount sought, but did not. The landlord provided sufficient documentation to support his claim of unpaid rent. The landlord seeks \$3937.50 in unpaid rent along with the recovery of the \$100.00 filing fee for a total claim of \$4037.50. Applying the offsetting provisions of section 72 of the Act, I hereby apply the \$1137.50 in deposits that the landlord holds for a final monetary order of \$2900.00.

Conclusion

The landlord is granted an order of possession and a monetary order of \$2900.00.

The tenants' application is dismissed in its entirety without leave to reapply.

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: April 12, 2019

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Residential Tenancy Branch