



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNR, OPR, MNR, FF

This hearing was convened in response to applications by the landlords and the tenant.

The landlords' application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To be allowed more time to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice"), issue on March 4, 2020; and
2. To cancel the Notice.

The landlord appeared.

### Preliminary and procedural matters

#### Tenant's application

This matter was set for hearing by telephone conference call at 11:00 A.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenant did not attend the hearing by 11:15 and the landlord appeared and was ready to proceed.

In this case, the tenant seeks more time to dispute the Notice. However, as the effective date of the Notice was March 14, 2020, and the tenant did not make their application until March 20, 2020. I find the tenant's application must be dismissed as section 66(3) of the Act states a director must not extend the time lime to make an

application for dispute resolution to dispute a notice to end tenancy beyond the effective date of the Notice.

### Landlord's application

Although served with the Application for Dispute Resolution and Notice of Hearing, by registered mail, on April 2, 2020 the tenant did not appear. A Canada post tracking number was provided as evidence of service. I find that the tenant has been duly served in accordance with the Act.

The landlord gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issues to be Decided

Are the landlords entitled to an order of possession for unpaid rent?

Are the landlords entitled to a monetary order?

Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

The tenant submits in their application that they received the Notice on March 5, 2020. I find the tenant was duly served with the Notice.

The landlord testified that the tenant received a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on February 19, 2020, by placing in the mailbox. The landlord stated that the tenant's mother paid the rent on March 3, 2020.

The landlord testified that the tenant was served with a second notice to end tenancy on March 5, 2020, which was the subject of the tenant's application. The landlord stated that the tenant has not paid rent for March, April, and May 2020. The landlord stated that the tenant is not paying rent because the tenant told him the premier of BC says he doesn't have to pay.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

In this case, the tenant acknowledged in their application that they received the Notice on March 5, 2020. The tenant did not pay the rent for March 2020 and has failed to pay any rent for April and May 2020. I find the tenant has breached section 26 of the Act. Therefore, I find the Notice is valid and remains in full force and effect.

I find that the landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

The evidence of the landlord was that the tenant is refusing to pay rent based on comments made by the premiere of BC. However, the **Ministerial Order M089 issued March 30, 2020**, has no bearing on rent that was due prior to the Order being made, such as in this case rent was due on March 1, 2020. Tenants are not exempt from paying rent when it become due and owing.

I

I find that the landlords have established a total monetary claim of **\$3,700.00** comprised of unpaid rent for March, April and May 2020, and the \$100.00 fee paid by the landlords for this application.

I order that the landlords retain the security deposit of \$600.00 in partial satisfaction of the claim and I grant the landlords an order pursuant to section 67 of the Act, for the balance due of **\$3,100.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

### Conclusion

The tenant's application is dismissed. The landlords are granted an order of possession and a monetary order in the above noted amount.

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: May 15, 2020

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Residential Tenancy Branch