



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPL, MNR, MNDC (Landlord's Application)  
CNR, CNL (Tenants' Application)

### Introduction

This hearing was scheduled in response to an Application for Dispute Resolution (the "Application") made by the Tenants on October 24, 2016 and by the Landlord on November 16, 2016.

The Tenants made their Application to cancel a notice to end tenancy for the Landlord's use of the property and for unpaid rent. The Landlord applied for an Order of Possession for the Landlord's use of the property and for unpaid rent. The Landlord also applied for a Monetary Order for unpaid rent and for compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation, or tenancy agreement.

### Preliminary Issues and Findings

The female Tenant appeared for the hearing and provided affirmed testimony as well as a copy of the notices to end tenancy. However, there was no appearance by the Landlord for the 12 minute duration of the hearing despite the Landlord's Application that was scheduled to be heard at the same time in this hearing. Therefore, I turned my mind to the service of the Tenants' Application to the Landlord.

The Tenant testified that she served the Landlord with a copy of their Application and the Notice of Hearing documents to the Landlord on October 25, 2016 by registered mail. Therefore, based on the undisputed evidence before me I find the Tenants served the Landlord with the required documents for this hearing pursuant to Section 89(1) (c) of the Act.

The Tenant confirmed receipt of the 10 Day Notice for Unpaid Rent or Utilities (the "10 Day Notice") dated October 18, 2016 on October 19, 2016. The Tenant confirmed receipt of a 2 Month Notice to End Tenancy for Landlord's Use of the Property (the "2 Month Notice") dated September 27, 2016 in October 2016.

The Tenant testified that the unpaid rent amount of \$1,600.00 detailed on the 10 Day Notice was paid in full on October 20, 2016, the day after they received the 10 Day Notice on October 19, 2016 and that there were no rental arrears in this tenancy at the time of this hearing.

The Tenant testified that when the Landlord named on the Application took over the tenancy in April 2016, the Landlord increased the rent to \$1,200.00 per month but included utilities in this amount. The new rent amount including the utilities was effective from June 2016 onwards. The Tenant submitted therefore, the amount of utilities detailed on the 10 Day Notice was also not valid.

The Tenant explained that they were disputing the 2 Month Notice because the Landlord at the time of issuing them with the 2 Month Notice had not obtained the relevant permits. However, the 2 Month Notice that the Tenants had provided into evidence which the Landlord had served to them did not stipulate a reason to end the tenancy on the second page of the 2 Month Notice.

### Analysis

As the Landlord failed to appear for this hearing and provide evidence to support the notices to end tenancy and support the monetary claim, I dismiss the Landlord's Application without leave to re-apply.

With respect to the Tenant's Application to cancel the 10 Day Notice, Section 46(4) (a) of the Act states that if a tenant who receives a 10 Day Notice pays the overdue rent within five days of receiving a 10 Day Notice, the 10 Day Notice has no effect. Therefore, based on the undisputed evidence of the Tenant that there are no rental arrears in this tenancy as the overdue rent was paid the next day after receiving the 10 Day Notice, I grant the Tenants' Application to cancel the 10 Day Notice.

With respect to the 2 Month Notice, Section 52 of the Act stipulates the particular requirements a notice to end tenancy must contain in order for it to be effective. In particular, Section 52(d) of the Act requires that the notice to end tenancy must state the grounds for ending the tenancy. In this case, the 2 Month Notice provided into evidence before me does not stipulate the reason on page 2 for ending the tenancy. Therefore, in the absence of the Landlord's appearance at this hearing to suggest otherwise, I am only able to conclude the Landlord issued the Tenant with a 2 Month Notice that did not comply with the Act. Therefore it is of no effect and is hereby cancelled.

### Conclusion

The Landlord failed to appear for the hearing. Therefore, the Landlord's Application is dismissed without leave to re-apply. I grant the Tenants' Application to cancel the 10 Day Notice dated October 18, 2016 and the 2 Month Notice dated September 27, 2016. The tenancy will resume until it is ended in accordance with the Act.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: December 13, 2016

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Residential Tenancy Branch