



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WATERFORD DEVELOPMENTS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, ERP, RP, RR

### Introduction

This hearing was scheduled to deal with the tenant's application, via teleconference call, for the following remedies:

- Cancellation of a 10 Day Notice to End tenancy for Unpaid Rent dated September 14, 2018 ("10 Day Notice");
- Orders for repairs, including emergency repairs; and,
- Authorization to reduce rent for repairs, services or facilities agreed upon but not provided in the amount of \$2,500.00.

The tenants appeared at the hearing however, there was no appearance on part of or on behalf of the landlord. Since the landlord did not appear, I explored service of hearing documents upon the landlord.

The tenants testified that they delivered the hearing package and evidence to the service address the landlord provided on the 10 Day Notice on September 22, 2018. The tenant described the service address as being a hotel and she gave the package to the front desk clerk who provided the tenant with a written acknowledgement of the package. I was satisfied the landlord was duly served with the hearing documents at the landlord's place of doing business as a landlord and I continued to hear from the tenants without the landlord present.

I have considered the evidence provided by the tenants in making this decision; however, there was no evidence presented by the landlord either in person at the hearing or by way of written submission or evidence provided prior to the hearing.

On another procedural matter, a party that makes an application must include full particulars with their Application, as provided under section 59 of the Act, and if their

Application includes a monetary claim the Application is to include a detailed calculation to demonstrate how the amount sought was calculated pursuant to Rule 2.5 of the Rules of Procedure. In this case, the tenant's Application was filed on September 17, 2018 and the tenants' requests included a rent reduction in the amount of \$2,500.00. While the tenants provided other documents when they filed on September 17, 2018 I note that the tenants did not provide calculations to support their \$2,500.00 claim until much later, on October 15, 2018. I am uncertain as to when, if ever, the tenants provided the detailed calculation to the landlord. I also note that a component of their claim appears to be related to a contract for services which is not usually a matter that the Residential Tenancy Branch has jurisdiction to resolve. Therefore, I do not consider the tenant's claim for \$2,500.00 any further and I dismiss their request for a rent reduction or monetary claim with leave to reapply. The tenants are at liberty to file another Application to seek monetary compensation from the landlord or a rent reduction if they so choose and provide a detailed calculation at the time of filing.

#### Issue(s) to be Decided

1. Should the 10 Day Notice to End Tenancy for Unpaid Rent be upheld or cancelled?
2. Is it necessary and/or appropriate to issue repair orders against the landlord?

#### Background and Evidence

The tenancy started on February 15, 2018 and the tenants paid a security deposit of \$500.00 and a pet damage deposit of \$500.00. The tenants are required to pay rent of \$1,000.00 on the first day of every month. I noted that I was not provided a copy of the tenancy agreement. The tenants stated that they both signed a tenancy agreement but the landlord did not provide a copy of it to them.

Below, I have summarized the issues raised by the tenants by way of this application.

#### **10 Day Notice to End Tenancy for Unpaid Rent**

The tenants submitted that they had always paid their rent in cash to the former resident manager and receipts were given by the former manager. In August 2018 the tenants were notified of a new manager. On August 31, 2018 the tenant withdrew \$1,000.00 in cash from her bank account after cashing her pay cheque and presented the \$1,000.00 to the new manager in unit #110 on September 1, 2018. The new manager did not issue a receipt to the tenant. When the tenant questioned that the new manager stated

the owners would provide receipts once the owners retrieved the rent money from the manager. Then on September 14, 2018 the tenants received a 10 Day Notice to End Tenancy for Unpaid Rent that was posted to the rental unit door. The 10 Day Notice indicates that rent of \$1,000.00 was outstanding as of September 1, 2018. The tenants filed to dispute the 10 Day Notice.

In support of their position that they paid rent on September 1, 2018 in cash, the tenants provided copies of rent receipts for the previous months and a copy of the tenant's bank statement to show she withdrew \$1,000.00 in cash on August 31, 2018.

As for rent for October 2018 the tenants testified that they obtained a money order for the rent and it remains available for pick up by the landlord. The tenants stated that they understand the building manager has changed again, possibly located in unit #107, and they have attempted to reach the building manager to deliver the money order without success. Since the tenants have a service address for the landlord on the 10 Day Notice I suggested the tenants may deliver payment to the landlord at location.

### **Outstanding repairs and maintenance**

#### **a. Building front door lock**

The tenants submitted that the front door to the building does not lock. I heard that in entering into the tenancy the former manager promised that the front door lock would be repaired. The tenant stated that there was an attempt to repair the lock but the repair was effective for only a brief period of time before it stopped working again. The door repairman returned to the property and determined the lock could not be fixed and the door required replacement. As a result of the non-working lock, the tenants submitted the property is unsecure and they have observed prostitutes and drug users entering the building and using drugs and performing sex acts in the common areas of the building.

The tenants provided photographs to demonstrate the latch in the front door does not operate and copies of letters written to the landlord to request the front door lock be repaired.

b. Intercom

The tenants submitted that the intercom does not work despite promises that it would be repaired when they entered into the tenancy agreement. The tenants acknowledged that there were two attempts to repair the intercom but it still does not work.

c. Garbage

The tenants submitted that the garbage dumpster for the building is insufficient and as a result garbage is often overflowing onto the ground. As a result, there are rats, mice and other pests that are attracted to the property. The tenants do not want to contribute to the overflowing garbage so the tenant has been taking their trash to dispose of it at her workplace. The tenants provided copies of letters written to the landlord to bring the overflowing garbage situation to the landlords attention and a photograph of an overflowing garbage dumpster.

d. Laundry machines

The tenants submitted that the laundry machines often do not work. The tenants suspect it is the result of electrical issues as they have seen the machines plugged into extension cords.

e. Dirty common areas

The tenants submitted that after the former manager left the lobby and hallways are usually dirty and have garbage lying about. The tenants provided a photograph of newspapers or flyers in the corner of the lobby.

Analysis

Upon consideration of everything before me, I provide the following findings and reasons.

**10 Day Notice to End Tenancy for Unpaid Rent**

Where a notice to end tenancy comes under dispute, the landlord bears the burden to prove the tenancy should end for the reason(s) indicated on the Notice.

In this case, the tenants received a 10 Day Notice to End Tenancy for Unpaid Rent and filed to dispute the notice on the basis they had paid the rent that was due on September 1, 2018. The tenants provided evidence in an effort to support their position and in the absence of any contradictory evidence from the landlord, I find the landlord has not met its burden to prove the tenancy should end based on the 10 Day Notice issued on September 14, 2018. Therefore, I cancel the 10 Day Notice dated September 14, 2018 and the tenancy continues at this time.

### **Outstanding repairs and maintenance**

Section 32(1) and (5) of the Act provide for a landlord's obligation to repair and maintain a rental unit and residential property. Below I reproduced the relevant parts of section 32:

- (1) A landlord must provide and maintain residential property in a state of decoration and repair that
  - (a) complies with the health, safety and housing standards required by law, and
  - (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.
- (5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

In addition, a landlord may not terminate a service or facility that is to be provided to the tenant under their tenancy agreement except in limited circumstances provided under section 27 of the Act.

Upon consideration of the unopposed evidence before me, I accept that there are outstanding repair and maintenance issues at the residential property and the landlord is aware of or ought to be aware of the issues. I also accept that the tenants are entitled to garbage collection and use of the common laundry facilities. Therefore, I grant the tenant's request for repair orders and **I order the landlord to do the following:**

1. Repair or replace the main entry door to the building so that it is capable of being locked.
2. Repair or replace the intercom system so that it is operational.
3. Provide additional or larger garbage receptacles so that garbage is not overflowing from the dumpster.

4. Make the necessary repairs so that the common laundry machines are operational in a manner that complies with the appropriate building standards.
5. Ensure the common areas of the residential property are kept reasonably clean and sanitary by providing sufficient cleaning services.

**Orders 1 through 4 are to be completed within one (1) month of receiving this decision. Order 5 is effective immediately upon receipt of this decision.**

Should the landlord fail to comply with any of the above orders, the tenants may seek further remedy including other orders or authorizations, monetary compensation and/or a rent reduction by making another Application for Dispute Resolution.

### Conclusion

The 10 Day Notice dated September 14, 2018 is cancelled and the tenancy continues at this time.

I have issued repair and maintenance orders to the landlord with this decision.

The tenant's request for monetary compensation and/or rent reduction is dismissed with 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: November 02, 2018

---

Residential Tenancy Branch