



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding INDEEP HOLDINGS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR OLC

This dispute relates to a tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 5, 2022 (10 Day Notice),
2. An order directing the landlord to comply with the Act, Regulation or tenancy agreement.

The parties attended the teleconference hearing. The parties were affirmed and given the opportunity to testify and present any evidence submitted in accordance with the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). The parties were also given the opportunity to ask questions during the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The agent confirmed that they had been served by the tenant with documentary evidence and that the documents had been reviewed prior to the hearing. The agent confirmed that they did not serve the tenant with their documentary evidence and assumed the RTB would serve the tenant, which is incorrect. The parties were advised that all service information was contained in the application served on the landlord.

### Preliminary and Procedural Matters

The parties confirmed their email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

The filing fee was waived for this application so will not be considered further.

### Issues to be Decided

- Should the 10 Day Notice be cancelled?
- If yes, should the landlord be ordered to do anything under the Act?

### Background and Evidence

The agent did not deny that the tenancy began in June 2022 as that date predates the agent starting their position as building manager for the landlord (agent) in September 2022.

The tenant testified that the only document in writing in relation to the tenancy was a Shelter Information Form (Shelter Form). That document was submitted in evidence and confirms that rent is \$400 per month.

The 10 Day Notice dated December 5, 2022, indicates that \$750 was owed as of December 1, 2022. The tenant applied to dispute the 10 Day Notice on December 9, 2022, which is within the 5-day timeline provided for under the Act.

The tenant testified that landlord asked them to sign a new tenancy agreement where they would agree to work for the extra \$350 above the \$400 rent for a total of \$750, which the tenant did not agree to or sign. The tenant stated that any work as a maintenance person has been paid separately via e-transfer. The agent confirmed that the landlord has paid the tenant via e-transfer for maintenance work at times.

The agent was asked why they believe rent is now \$750 per month versus the original \$400 amount. The agent stated that the new owners want an increase to the rent. The parties were advised that as the tenant did not agree to sign a new tenancy agreement, the landlord's attempt for a mutual agreement to increase rent has failed.

### Analysis

Based on the documentary evidence and the testimony of the parties provided during the hearing, and on the balance of probabilities, I find the following.

I find that monthly rent is \$400 as indicated on the Shelter Form as there is no tenancy agreement in writing signed by the tenant before me. In addition, I find that the tenant did not agree to mutually increase the rent by mutual agreement and as a result, the unsigned tenancy agreement is of no force or effect.

In addition, the rent cannot increase just because the landlord wants it to under the Act. The landlord must follow Part 3 of the Act, which defines what a rent increase is, the timing of them, the maximum amounts and the notice period. This information is found in sections 40 to 43.1 of the Act, inclusive.

As the rent is \$400 and not \$750 as indicated on the 10 Day Notice, **I cancel** the 10 Day Notice as I find the landlord has failed to prove the monthly rent is any higher than \$400. I find there is no evidence before me that the tenant failed to pay the required \$400 per month.

Based on the above, **I ORDER** the tenancy to continue until ended in accordance with the Act.

In addition, **I caution** the landlord not to issue a Notice to End Tenancy for an amount of rent that has not been lawfully increased under the Act.

### Conclusion

The 10 Day Notice dated December 5, 2022 issued by the landlord has been cancelled and is of no force or effect.

The tenancy shall continue until ended in accordance with the Act.

This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 19, 2023

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Residential Tenancy Branch