



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNR, FF

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking to cancel a 10 day Notice to End Tenancy for unpaid rent and to recover the filing fee for the Application.

The Tenant testified that on February 2, 2010, he had served an Agent for the Landlord personally with the Application for Dispute Resolution and Notice of Hearing documents. Despite this, neither the Landlord nor his Agent appeared at the hearing. I find the Landlord has been served in accordance with the Act.

The Tenant appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

### Issues(s) to be Decided

Is the 10 day Notice to End Tenancy for unpaid rent valid, or should it be cancelled?

### Background and Evidence

The Tenant testified that he was living in the rental unit with his ailing grandmother and helping her out.

According to the uncontradicted testimony of the Tenant, the Landlord increased the rent from \$700.00 to \$1,100.00, when he learned that the Tenant had moved into the rental unit.

The Tenant refused to pay the increase and was served with the 10 day Notice to End Tenancy on February 2, 2010.

Analysis

Based on the uncontradicted testimony and evidence, and on a balance of probabilities, I find that the Landlord has breached the Act by increasing the rent by an illegal amount.

The Landlord has increased the rent by an amount that exceeds the increase available under part 3 of the Act and in the regulation, and this illegal amount is the amount sought under the 10 day Notice to End Tenancy.

Therefore, I find that the 10 day Notice to End Tenancy issued by the Landlord on February 2, 2010, with an effective end date of February 12, 2010, is invalid and must be cancelled.

**I order that the 10 day Notice to End Tenancy is cancelled and is of no force or effect.**

The Tenant is entitled to recover the \$50.00 filing fee for the Application. The Tenant may deduct \$50.00 from one month of rent to recover the filing fee.

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: March 22, 2010.

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Dispute Resolution Officer