



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNR

### Introduction

This hearing dealt with an application by the tenant(s) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent. Both parties participated in the conference call hearing and gave affirmed testimony.

### Issues to be Decided

Are the tenants entitled to the above under the Act.

### Summary of Background and Evidence

The tenancy began in approximately September 2002. Rent in the amount of \$637.47 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected a security deposit in the amount of \$270.00.

The agent for the landlord stated that when the current property management took in January 2010 it undertook to determine if any tenants had rent arrears. The ledger being used for this purpose shows that the tenants owe rent from September 2009 and based on that information, on October 2, 2010 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord has continued to take rent from the tenants since September 2009, however the landlord has not issued the tenant receipts stating 'for use and occupancy only' during this time therefore the tenancy was reinstated and remains in place.

The landlord's agent and tenant both agree that tenant records for payments prior to January 2010 may be incomplete and that all receipts for rent paid may not be in the tenants files. It is unclear if the former management company provided the tenants with receipts when rent was paid.



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The tenant stated that the former management company had a long standing history of not keeping track of rent payments and that tenants were often given 10 day notices even though the rent had been paid. Tenants would then be required to provide receipts for rent paid to the property manager to have the notice for unpaid rent rescinded. The tenant testified that they are up to date in their rent and that there is no rent owed from September 2009.

## Analysis

Based on the documentary evidence and testimony I find there is insufficient evidence that the tenants are in arrears with rent. Accordingly, the notice to end tenancy is hereby set aside, and the tenancy continues in full force and effect.

If the landlord believes that rent is owed from 2009, the landlord has the option to file a monetary claim through this office and the burden of proof on such a claim would fall upon the landlord.

## Conclusion

Pursuant to all of the above, the landlord's 10 Day Notice to End Tenancy for Unpaid Rent is hereby set aside, with the result that the tenancy continues uninterrupted.

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 1, 2010

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Dispute Resolution Officer