



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MT, CNR, AAT, AS

### Introduction

This hearing dealt with an application by the tenant to allow more time to file an application, cancel a notice to end tenancy for unpaid rent, allow access to or from the unit and allow a tenant to assign or sublet. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

### Background and Evidence

On November 7, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The tenant has applied for more time to make an application however the tenant was served with the 10 day notice to end tenancy for unpaid rent on November 7, 2011 and filed to dispute the notice on November 9, 2011 which is within the specified 5 day time period. As the tenant does not require more time to make an application, this portion of the tenant's application is dismissed.

The tenant testified that there is a balance of \$31.32 owed on the September pad rent and \$310.00 owed on the November pad rent and that on November 8, 2011 he attempted to pay the rent but the landlord refused to take the money unless the tenant had 'all of it'. The tenant stated that he believed the landlord to be telling him that the entire amount of \$1005.05 as specified on the notice to end tenancy had to be paid in full. This amount of \$1005.05 includes \$341.32 in pad rent, \$272.80 in utilities and \$390.93 in property taxes.

The tenant stated that he had a cheque for \$221.84 from the ministry and cash and that between the two he had enough money to pay the pad rent on November 8, 2011.

The park manager testified that when he told the tenant that the past due amounts had to be paid in full that it included the pad rent and utilities but not the property taxes. The park manager believed that the tenant only had part of the pad rent and not all of it and that was why he refused to accept the money from the tenant.

The tenant testified that he and the landlord are in dispute over payment of the property taxes which the tenant states are to be paid by the owner of the mobile home, which he is, however the title to the mobile home has not yet been transferred into the tenant's name by the park owner who is also the seller. The tenant stated that if the park owner would complete the transfer of the title in to the tenant's name, that the tenant as a senior citizen could then defer the property taxes on the mobile home. The tenant and park owner entered into a 'rent to own' agreement in regards to the mobile home and this matter does not fall under the jurisdiction of the Residential Tenancy Act.

The tenant stated that in the past his guests had been blocked access to his mobile home by other tenants in the park but that this matter had since been resolved. The tenant stated that the park manager had never denied the tenant or his guest's access to the tenant's mobile home. As access to and from the tenant's mobile home is no longer an issue, this portion of the tenant's application is hereby dismissed.

The tenant has applied to allow a tenant to assign or sublet and the tenant stated that he had checked this box off as he had someone staying with him. The tenant stated that he was not sure what the proper process was for having someone residing in his mobile home with him and the tenant was advised to check with the park manager and check the park rules in this regard.

### Analysis

Based on the documentary evidence and testimony of the parties I find that there is insufficient evidence to uphold the Notice to End Tenancy for Unpaid Rent.

I accept the tenant's testimony that he had the funds on November 8, 2011 to pay the pad rent in full and this was in compliance with section 46(4) of the Act which may have effectively set the notice aside.

*Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities a Tenant must pay the overdue rent or apply for dispute resolution.*

As there was uncertainty on November 8, 2011 as to what the landlord was requesting from the tenant in the way of payment, and as the property taxes were included on the notice to end tenancy as unpaid utilities, I accept that the tenant was, to the best of his ability, attempting to pay all monies due to the landlord. I also find that the amounts noted on the notice combined with what the tenant was or was not being told to pay,

very confusing for the tenant and making compliance with the notice difficult if not impossible. It is imperative that when a landlord serves a tenant with a notice to end tenancy for unpaid rent or utilities that the notice accurately reflect what the tenant owes the landlord.

Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

The tenant currently has no issues with access to and from the site for him or his guests and any past issues have been resolved therefore this portion of the tenant's application is hereby dismissed.

In relation to the issue of the tenant having someone staying with him, the tenant will check with the park manager and check the park rules in this regard therefore this portion of the tenant's application is hereby dismissed.

### Conclusion

The landlord's 10 Day Notice to End Tenancy for Unpaid Rent dated November 7, 2011 is hereby set aside and the tenancy continues in full force and effect.

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 29, 2011

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Residential Tenancy Branch