



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR MNSD FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord seeking an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, to keep the security deposit in partial satisfaction of their claim, and to recover the cost of the filing fee from the Tenant.

### Issue(s) to be Decided

1. Has a valid 10 Day Notice to End Tenancy been issued and served upon the Tenant?

### Background and Evidence

At the outset of the hearing the Landlord advised that the Tenant no longer resides in unit # 209 because it was unlivable due to water leakage. She stated that as a result of the condition of unit # 209 the Tenant moved to unit # 410 during the first week of December 2010.

The Landlord confirmed the Tenant entered into a six month fixed term tenancy for unit # 209 that began on July 28, 2011 for the monthly rent of \$925.00. A 10 Day Notice was issued and served to the Tenant December 2, 2011, listing the unit number as #209 and was served to him at that address. The Tenant has failed to pay rent for December 2011 or January 2012 however no 10 Day Notice was issued to the Tenant for unit #410.

### Analysis

Section 44 (1) (d) of the Act provides that a tenancy ends if the tenant vacates or abandons the rental unit.

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear at the teleconference hearing, I accept the version of events as discussed by

the Landlord and find that the tenancy for unit # 209 ended at the time the Tenant vacated it and began occupying unit # 410, pursuant to section 44 of the Act, which occurred sometime during the first week of December 2010.

After careful review of the 10 Day Notice to End Tenancy (the Notice) I find that at the time the Notice was issued there was a valid tenancy between the parties for unit # 209. That being said, as noted above the tenancy for unit # 209 ended when the Tenant vacated the unit and therefore the Notice is now invalid.

Section 46 (1) of the Act provides that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenancy received the notice.

The Landlord confirmed that no 10 Day Notice was issued to the Tenant for unit # 410 therefore we cannot proceed with the Landlord's application that is currently before me. Accordingly, I dismiss the Landlord's application.

### Conclusion

The 10 Day Notice to End Tenancy issued December 2, 2011 is void and is of no force or effect.

I HEREBY DISMISS the Landlord's application.

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: January 06, 2012.

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Residential Tenancy Branch