



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNR; ERP; MNDC; OLC; RR

### **Introduction**

This hearing dealt with the Tenant's application cancel a *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* (the Notice) issued August 3, 2012; for an Order that the Landlord make emergency repairs to the rental property; compensation for damage or loss under the Act, regulation or tenancy agreement; an Order that the Landlord comply with the Act, regulation or tenancy agreement; and a rent reduction for repairs, services and facilities agreed upon but not provided.

The parties gave affirmed testimony at the Hearing

It was established that the Landlord received the Notice of Hearing documents and copies of the Tenant's documentary evidence on August 15, 2012.

It was also established that the Landlord mailed copies of its documentary evidence to the Tenant, by registered mail sent September 5, 2012.

### **Issue to be Decided**

- Should the Notice issued August 3, 2012, be cancelled?
- Is the Tenant entitled to compensation and Orders arising from a trip and fall at the rental unit?

### **Background and Evidence**

The parties were in agreement to the following facts:

- Rent is \$823.00 per month, due on the first day of each month.
- The Tenant also pays \$20.00 per month for parking.
- The Tenant paid a security deposit in the amount of \$395.00 on January 7, 2011.

The Landlord's agent testified that her husband served the Tenant with the Notice by handing it to the Tenant on August 3, 2012. The Tenant testified that he was not served personally, but he did find the Notice on the floor in front of his door on August 3, 2012.

When questioned why he waited so long to file his Application, the Tenant stated that he did not file his Application to cancel the Notice within 5 days of receipt because he did not know that he only had 5 days to dispute it. The Tenant stated that he did not receive page two of the Notice.

The Landlord's agent's husband was not available to give testimony with respect to service of the Notice and whether or not he had provided both pages of the Notice to the Tenant.

The Tenant stated that he did not pay rent for August because he could not afford to because he missed work after injuring himself on the faulty elevator at the rental property. He stated that he paid September's rent in full on with a cheque dated September 5, 2012.

### **Analysis**

Based on the Tenant's testimony, and the Landlord's inability to refute it, I find that the Landlord has failed to prove that it served the Tenant with a notice to end tenancy that complies with the provisions of Section 52 of the Act. Section 52(e) states that in order for a notice to end tenancy to be effective, a landlord must provide a notice to end in the approved form, which includes the important information about how to dispute the notice and important facts about payment of rent. This information and more is found on page two of the approved notice to end tenancy. Therefore, **the Notice is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.** The Landlord is at liberty to issue another notice to end tenancy in the approved form.

The Tenant was warned about the provisions of Section 26 of the Act with respect to payment of rent.

With respect to the remainder of the Tenant's application, the Residential Tenancy Rules of Procedure, Rule 2.3, states that for disputes to be combined on an application they must be related. I find that that the monetary claims and requests for Orders that the Landlord make repairs to the rental unit and comply with the Act, regulation or tenancy agreement are not sufficiently related to the main issue, which is to cancel the Notice. For these reasons, I dismiss the Tenant's application for a Monetary Order and other Orders **with leave to reapply.**

**Conclusion**

I grant the Tenant's application to cancel the Notice to End Tenancy. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The remainder of the Tenant's application is dismissed **with leave to reapply**.

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: September 14, 2012.

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Residential Tenancy Branch