



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Bayside Property Services Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

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Dispute Codes      CNR, FF, MNR, MNSD

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlords. Both files were heard together.

The tenant's application is a request to cancel a Notice to End Tenancy and a request for recovery of the \$50.00 filing fee.

The landlord's application is a request for a monetary order for \$890.00.

### Background and Evidence

This tenancy began on January 1, 2012 with the monthly rent of \$840.00.

The landlord holds a security deposit of \$420.00, a pet deposit of \$420.00, and a key deposit of \$20.00, all of which were paid on December 31, 2011.

On February 23, 2013 the landlord posted a 10 day notice to end tenancy on the tenant's door, stating that \$840.00 in rent was outstanding for the month of February 2013.

On February 28, 2013 the tenant paid the full outstanding February 2013 rent.

The tenant's application for dispute resolution was also filed on February 28, 2013.

The landlord's application for dispute resolution was filed on March 6, 2013.

The landlord testified that:

- The tenant did not have to file for dispute resolution, because the tenant paid the outstanding February 2013 rent within five days of receiving the notice to end tenancy, and thereby voided the notice to end tenancy.
- The tenant however still has outstanding rent from the month of November 2012 in the amount of \$840.00 which has not been paid.
- The tenant claims to have paid the November 2012 rent and therefore was given the opportunity to produce a rent receipt however the tenant has been unable to do so.
- They have checked their records and they have no record of the tenant having paid the November 2012 rent.
- They are therefore requesting an order for the outstanding \$840.00 in rent, and for the \$50.00 filing fee for a total of \$890.00.

The tenant testified that:

- He does not owe any rent for the month of November 2012, as the full November 2012 rent was paid in advance on October 27, 2012 and he has provided a receipt for that payment.
- The landlord has claimed that that is a receipt for November 2012 rent which was paid late on October 27, however if that was the case it would have been for \$865.00 as a late fee would have been required.
- The rent ledger provided by the landlord does not include payments made in the month of September 2012, or any previous months, and it's his belief that it is not an actual rent ledger, simply a statement produced for the hearing.
- The landlord states that I have been unable to produce rent receipt; however the landlord has not produced their rent receipt book which would show copies of all receipts issued.

- The landlord has on more than one occasion in the past claimed that rent was outstanding, only to find that they had made an error in their accounting and he believes that this is another accounting error on the part of the landlords.

### Analysis

#### Tenant's application

It's my finding that the tenant did not need to apply for dispute resolution, since the tenant paid the full outstanding rent within five days of receiving the notice to end tenancy and thereby voided the notice.

I will therefore not issue any order canceling the notice nor will I order recovery of the filing fee.

#### Landlord's application

It is my finding that the landlord has not met the burden of proving that the November 2012 rent is still outstanding.

The landlords have been issuing identical rent receipts each month so it's obvious that the rent receipts come from the same rent receipt book, however the landlord has failed to supply a copy of that book claiming the copies were sent to the head office; however I find that unlikely as a receipts issued in the month of January 2013 are still issued on identical receipts.

Further, I find it more likely that the receipt issued on October 27, 2012 is for the November 2012 rent because, as stated by the tenant, had the October 2012 rent been paid on October 27, 2012, the tenant would also have been required to pay a late fee and there is no evidence to show that the landlord has ever requested a late fee for the October 2012 rent.

Also, if November 2012 rent was outstanding, why did the Notice to End Tenancy that was served on February 23, 2013 only state that there was \$840.00 outstanding for the month of February 2013. If the landlord's believe that November 2012 rent was outstanding I'm sure they would have included the \$840.00 on the Notice to End Tenancy.

Lastly, the landlord has not been able to definitively state that the November 2012 rent has not been paid; she simply stated that they have been able to find any record of it having been paid.

Conclusion

Tenant's application

The tenant's application is dismissed in full without leave to reapply.

Landlord's application

The landlord's application is dismissed in full without 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 *Manufactured Home Park Tenancy Act*.

Dated: March 25, 2013

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Residential Tenancy Branch

