



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNR

### **Introduction**

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 Notice to End Tenancy was sufficiently served on the Tenant on May 18, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Landlord on June 7, 2013. With respect to each of the applicant's claims I find as follows:

### **Issues to be Decided**

The issue to be decided is whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated May 18, 2013?

### **Background and Evidence:**

The tenancy began on October 1, 2011. The tenancy agreement provided that the tenant(s) would pay rent of \$1500 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$750 at the start of the tenancy.

The tenant testified that in early May she paid a utility bill of \$1534 as the gas had been cut off. She testified that it is the landlord's responsibility to pay the utilities and the

Residential Tenancy Act permits her to apply this payment to outstanding rent as an emergency repair. Accordingly she did not pay the landlord the rent for May.

The landlord testified that the tenancy agreement provides that the tenant is obliged to pay one half of the utilities and she did not have the right to withhold the rent for May. Both parties agree that the issue of who is responsible to pay the utilities is before another arbitrator. The parties had not yet received a copy of that decision.

Analysis:

The parties are bound by the decision of the previous arbitrator. After the conclusion of the hearing I search that file and obtained a copy of the decision. The arbitrator in that decision held that the tenant was responsible to pay half of the utilities. The arbitrator determined that the tenant had received the 10 day Notice to End Tenancy dated May 18, 2013, failed to pay the arrears within 5 days of receiving the Notice and granted the landlord an Order for Possession and a monetary order in the sum of \$1550 for non-payment of rent for May and the cost of the filing fee.

**As a result of that decision which is binding on the parties I dismissed the tenant's application to cancel the 10 day Notice to End Tenancy dated May 18, 2013.** The tenancy shall end in accordance with the Order for Possession granted by the previous arbitrator.

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: June 18, 2013

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Residential Tenancy Branch