



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, DRI, CNR, OLC, LRE, LAT, O

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the landlord's 10 Day Notice pursuant to section 46;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- other unspecified remedies.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another.

Preliminary Matters

The landlord testified that she sent the tenant the 10 Day Notice of July 30, 2013, by registered mail on July 31, 2013. She entered into written evidence a copy of the Canada Post Tracking Number and confirmation that the tenant received the 10 Day Notice on August 1, 2013. The tenant confirmed that she received the landlord's 10 Day Notice on August 1, 2013. The landlord (whom the tenant identified as her mother) testified that she received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on August 9, 2013. I am satisfied that the above documents were served to one another in accordance with the *Act*.

Although the tenant testified that she had not received a copy of the landlord's written evidence within the time frames set out by the Residential Tenancy Branch (the RTB), the tenant said that she had received these documents in sufficient time to enable her to prepare for this hearing.

The tenant testified that she served her written evidence to the landlord by handing this evidence to the landlord's husband (the tenant's stepfather) at the landlord's residence on September 5, 2013. The tenant said that the landlord refused to answer the door and could be overheard yelling at her from inside the house. The tenant testified that she was accompanied during the service of these documents to the landlord by her two daughters, neither of whom participated in this hearing or submitted written statements to confirm the tenant's sworn testimony in this regard.

The landlord gave sworn oral testimony at the commencement of this hearing that she had not received the tenant's written evidence for this hearing. She further stated that she had never seen the written evidence that the tenant was referring to in the tenant's sworn testimony.

Based on the evidence before me, I am satisfied that the tenant served her written evidence to the landlord in accordance with section 88(e) of the *Act*, which allows a tenant to serve written evidence to a landlord "by leaving a copy at the person's residence with an adult who apparently resides with the person." In making this determination, I also note that during the course of this hearing, the landlord proceeded to refer to specific page numbers of the tenant's written evidence submission, which she had earlier testified she had "never seen". When questioned as to how she was able to refer to specific page numbers of the tenant's written evidence package, the landlord maintained that the tenant had provided her with written evidence in the past during the consideration of other applications for dispute resolution heard on previous occasions by Arbitrators appointed under the *Act*. I have considered the tenant's written evidence in reaching my decision as I find on a balance of probabilities it more likely than not that the landlord received the tenant's written evidence for the consideration of the matters in dispute at this hearing.

At the commencement of the hearing, I addressed the tenant's inclusion of a request for more time to make her application to cancel the 10 Day Notice. I confirmed that the tenant submitted her application for dispute resolution to the RTB on August 6, 2013. Although the landlord had questioned the timeliness of the tenant's application for dispute resolution, I noted that the tenant's application for dispute resolution was submitted within the 5-day time period for doing so as set out in the *Act* and as stated on the 10 Day Notice. As there was no need for the tenant to obtain an extension of time to submit her application to cancel the 10 Day Notice, the tenant withdrew her application for this outcome. The tenant's application for more time to apply for cancellation of the 10 Day Notice is withdrawn.

At the commencement of the hearing, the landlord made an oral request for an Order of Possession if the tenant's application to cancel the 10 Day Notice were dismissed.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Should any other orders be issued with respect to this tenancy?

Background and Evidence

This tenancy has been subject to a number of decisions from other Arbitrators appointed under the Act. In the most recent of these decisions, a July 23, 2013 decision of the initial Arbitrator, the background to this tenancy and the previous decisions of Arbitrators appointed under the Act were described in the following terms, undisputed at the current hearing:

...On February 26, 2013, the landlord had made an application for dispute resolution seeking to end the tenancy and seeking compensation for unpaid rent. The landlord's application was successful and the landlord received an Order of Possession and Monetary Order against the tenant through the Direct Request Proceeding process. However, the tenant then made an application for review consideration based upon producing evidence that the Decision of February 26, 2013, was obtained by fraud.

The tenant was successful in the request for review consideration and, in a Decision dated March 12, 2013, a review hearing was ordered. The arbitrator suspended the original decision of February 26, 2013, pending the review hearing.

A review hearing was held on April 11, 2013. The result was that the landlord's order of possession for the rental unit, effective 2 days after serving, was reinstated. The decision reinstating the Order of Possession was issued on April 12, 2013 and sent to the landlord for service on the tenant.

However, the monetary order for the rental arrears, issued on February 26, 2013, in favour of the landlord, was not reinstated. The landlord's monetary claim for rent in the landlord's application was dismissed without leave to reapply...

The initial Arbitrator described the issues before her as follows:

...The tenancy relationship began in 2009 and the parties had signed back-to-back fixed term tenancies, with the most recent tenancy agreement expiring on December 31, 2012, after which the tenancy converted to month-to-month. No security deposit was paid.

The tenant acknowledged that the landlord served a Ten Day Notice to End Tenancy for Unpaid Rent. The tenant also conceded that the landlord was successful in their application and was granted an Order of Possession against the tenant, that was confirmed as valid and enforceable by the Arbitrator in the re-hearing decision dated April 12, 2013.

The tenant further agreed that the landlord served this Order of Possession on the tenant.

However, the tenant's position is that by June 17, 2013, when the landlord finally served her with the Order of Possession the Order had been compromised by the fact that the tenancy was reinstated.

The tenant testified that this Order was served on the tenant after a significant delay of two months, during which the landlord had willingly accepted monthly rental payments from the tenant for the months of May 2013 and June 2013, and the landlord had apparently done so without any stated conditions. The tenant testified that the landlord failed to specifically make it clear that the payments were being accepted "for use and occupancy only". The tenant testified that that, in fact, the landlord had even communicated an intent to continue the tenancy. At the same time, the landlord also appeared to be negotiating that the parties enter into a new revised tenancy agreement...

The most recent signed Residential Tenancy Agreement (the Agreement) between the parties covered the two year fixed term from January 1, 2011 until December 31, 2012. The tenancy has continued as a periodic tenancy since December 31, 2012. Monthly rent was set at \$775.00, payable on the 15th of the month. However, an Addendum to the Agreement initialled by both parties noted the following:

...Rent will be reduced to \$500 per month if all 3 conditions are met:

No more than 3 cats as pets. 2. Rent is on time. 3. Improvements to the downstairs are done with no labour charge. Owner supplies the material DW to supply labour free. See house plans.

The parties provided conflicting sworn testimony and written evidence as to whether the three conditions had been met and in particular who was responsible for the tenant's failure to arrange for the completion of the improvements to the downstairs cited in the Addendum. The tenant maintained that the landlord had never provided the materials to the tenant or her male friend DW so that this work could be conducted, nor had the landlord returned the building plans so that DW could undertake this work. She entered into written evidence a statement from DW confirming her account of these circumstances. The landlord testified that the tenant and DW have never asked her to

supply the materials or to provide them with building plans for the renovation work in question. The landlord maintained that the monthly rent as of January 1, 2013 is \$775.00. The tenant maintained that the monthly rent as of that date and throughout her tenancy has been \$500.00, due to the landlord's failure to abide by the terms of the Addendum to the Agreement.

In her July 23, 2013 decision, the initial Arbitrator determined that she could not consider the landlord's application for the issuance of another order of possession because that matter had already been considered at hearings held on February 26, 2013 and April 11, 2013. She noted that the landlord had previously received a legal and enforceable Order of Possession on February 26, 2013 that was subsequently confirmed in the decision after the review hearing held on April 11, 2013. She also declined jurisdiction to make another finding with respect to the landlord's application for a monetary award for unpaid rent as "this matter was also dealt with in the decision resulting from the rehearing held on April 11, 2013, at which time the monetary claims of the landlord were dismissed without leave."

The initial Arbitrator determined that the legal principle of *res judicata* prevented her from finding that she had jurisdiction to consider the landlord's application for dispute resolution. In her decision, she described *res judicata* as "a rule in law that a final decision, determined by an Officer with proper jurisdiction and made on the merits of the claim, is conclusive as to the rights of the parties and constitutes an absolute bar to a subsequent application involving the same claim."

The initial Arbitrator did find that she had jurisdiction to make a finding with respect to the tenant's application for an Order of Possession pursuant to section 54 of the *Act*. She made the following determination:

...I find that the tenancy between this landlord and this tenant was inadvertently reinstated by the landlord. Therefore I find that the tenant is entitled to be granted an Order of Possession.

I hereby grant the tenant an Order of Possession effective immediately on service to the landlord. This order must be served on the landlord...

In accordance with the RTB's Rules of Procedure, she severed the remainder of the tenant's application for the issuance of a number of orders against the landlord with leave to reapply.

Shortly after receiving the initial Arbitrator's final and binding decision, the landlord served the tenant with a new 10 Day Notice on July 31, 2013, claiming in that Notice that the tenant was in arrears of \$2,925.00 as of apparently July 15, 2013. I note that

two different copies of the 10 Day Notice were entered into written evidence by the parties. The copy of that Notice submitted by the tenant noted that the above rent was owing as of the 15th day of the 27th month of 2013. The landlord's copy of that Notice, in which the landlord added her own handwritten notations to the 10 Day Notice showed the rent owing as of the 15th day of the 7th month of 2013. Both parties gave sworn testimony that they had not altered the original dates when the rent was shown as owing. Given that it would be an absurdity to state that rent was owing on the 27th month of a 12 month year, I find it more likely than not that the correct date when rent was shown as owing was July 15, 2013. However, I remind both parties that the credibility of their evidence can be affected by measures taken to arbitrarily correct errors or mistakes made in original documents of importance to a dispute resolution hearing.

At the hearing, the landlord testified that she calculated the \$2,925.00 shown as owing in the landlord's 10 Day Notice of July 30, 2013 by determining that \$775.00 in rent was owing each month for this tenancy from the beginning of January 2013 until July 30, 2013. She maintained that the tenant had been withholding paying \$275.00 of this rent on the mistaken belief that the correct monthly rent should be \$500.00.

The landlord provided the following account of the rent paid by the tenant since January 2013 and the amounts that the landlord considered owing:

Month or Date	Amount Due	Amount Received from Tenant	Balance Owing
January 2013 Rent	\$775.00	\$500.00	\$275.00
February 15, 2013	\$775.00		\$1,050.00
February 20, 2013		\$400.00 paid (\$100 allowance given for laminate flooring)	\$550.00
March 15, 2013	\$775.00		\$1,325.00
March 18, 2013		\$250.00	\$1,075.00
March 20, 2013		\$500.00	\$575.00
April 15, 2013	\$775.00		\$1,350.00
May 15, 2013	\$775.00		\$2,125.00
May 18, 2013		\$500.00	\$1,625.00
May 18, 2013		\$150.00	\$1,475.00
May 22, 2013		\$100.00	\$1,375.00
June 15, 2013	\$775.00		\$2,150.00
July 15, 2013	\$775.00		\$2,925.00
AMOUNT OWING AS OF JULY 31,			\$2,925.00

2013			
August 9, 2013		ETransfer \$500.00 (accepted for use and occupancy only)	\$2,425.00
August 15, 2013	\$775.00		\$3,200.00
September 4, 2013		ETransfer \$500.00 (accepted for use and occupancy only)	\$2,700.00
AMOUNT OWING AT TIME OF HEARING			\$2,700.00

Since the tenant maintained that her correct monthly rent was \$500.00, she submitted written evidence and sworn testimony with respect to her following payment record regarding this same period of her tenancy:

Month or Date	Amount Due	Amount Received from Tenant	Balance Owning
January 2013 Rent	\$500.00	\$500.00	0
February 15, 2013	\$500.00		\$500.00
February 20, 2013		\$400.00 paid (\$100 allowance given for laminate flooring)	0
March 15, 2013	\$500.00		\$500.00
March 18, 2013		\$250.00 (Pre-payment of ½ of April 2013 Rent)	\$250.00
March 20, 2013		\$500.00	-\$250.00
April 15, 2013	\$500.00		\$250.00
May 15, 2013	\$500.00		\$750.00
May 18, 2013		\$500.00	\$250.00
May 18, 2013		\$150.00	\$100.00
May 22, 2013		\$100.00	0
June 15, 2013	\$500.00		\$500.00
July 15, 2013	\$500.00		\$1,000.00
AMOUNT OWING AS OF JULY 31, 2013			\$1,000.00
August 9, 2013		ETransfer \$500.00 (accepted for use and	\$500.00

		occupancy only)	
August 15, 2013	\$500.00		\$1,000.00
September 4, 2013		ETransfer \$500.00 (accepted for use and occupancy only)	\$500.00
AMOUNT OWING AT TIME OF HEARING			\$500.00

The tenant provided undisputed sworn testimony and written evidence that she was unable to pay her June 2013 rent. She maintained that the landlord had contacted the Ministry of Social Development (the Ministry) to have her shelter allowance discontinued because the landlord then had a valid Order of Possession to end this tenancy. The tenant advised that she did not agree with the Ministry's actions in discontinuing her shelter allowance for that month and is in the process of pursuing this issue with the Ministry. I noted that I cannot consider the propriety of the Ministry's actions, but can only look at whether or not rent was paid for this tenancy for the month(s) in question.

Analysis

A central issue in this dispute revolves around whether the monthly rent should be \$775.00 or \$500.00. The landlord's 10 Day Notice and calculations regarding the amount owed by the tenant depend in part on the landlord's claim that the monthly rent for this tenancy is \$775.00. Similarly, the tenant's claim that she was current with her rent payments as of May 22, 2013 relied on her assertion that her correct monthly rent was \$500.00.

I first note that the legal principle of *res judicata* cited in the initial Arbitrator's decision also prevents me from adjudicating a matter that has already been the subject of a final and binding decision of another Arbitrator appointed under the *Act*. This would prevent me from revisiting any of the decisions issued to date. Based on my reading of the previous arbitration decisions, I find that I am not prevented by the legal principle of *res judicata* from making a determination regarding the correct monthly rent for this tenancy.

I find that at least a portion of the amount identified as owing in the landlord's 10 Day Notice of July 31, 2013 included amounts that the Arbitrator who issued the review decision of April 12, 2013 decided the landlord was not entitled to receive. The Arbitrator who issued that decision dismissed the landlord's application for a monetary

award for unpaid rent owing as of the end of February 2013, without leave to reapply. The landlord's sworn testimony outlining how she calculated the \$2,925.00 identified as owing in the 10 Day Notice of July 30, 2013, included \$275.00 from January 2013 and \$275.00 from February 2013, a total of \$550.00.

I have also given consideration to whether any of the substantive findings included in previous arbitration decisions for this tenancy prevent me from making a determination as to the correct monthly rent for this tenancy. Although the April 12, 2013 arbitration decision determined that the landlord was not entitled to a monetary award for unpaid rent claimed in the landlord's original application for a monetary award for unpaid rent owing as of the end of February 2013, I do not find that the second Arbitrator's decision made a firm determination regarding the correct amount of monthly rent for this tenancy. In dismissing the landlord's application for a monetary award for unpaid rent owed by the end of February 2013, the second Arbitrator provided the following explanation:

... In the case before me, I find the landlord submitted insufficient evidence that she is entitled to the amount requested in her application, \$1000.00. In reaching this conclusion, I considered that part of the rent to be paid was for services rendered, or to be rendered by the tenant. Additionally, the landlord gave credit to the tenant for laminate flooring, the landlord attempted to start collecting for an increased amount other than the \$500.00 the tenant had traditionally paid throughout the tenancy, and the landlord failed to provide tenant ledger sheets or other accounting records.

In this dispute resolution hearing, I find I am unable to resolve the issue for the landlord as to whether the services were rendered, or completed, and in a satisfactory manner. The tenant disputed that she was able to start the work as the owner failed to provide the materials and I am not able to determine otherwise. Had these issues been brought before the Residential Tenancy Branch ("RTB") for dispute resolution by either party earlier seeking a resolution or clarification to the part of the tenancy agreement regarding services rendered, the matter could have been resolved for consideration in this dispute.

As the landlord submitted confusing and inconsistent evidence regarding the amount of unpaid rent, I find the landlord has not met her burden of proof and is not entitled to a monetary order for unpaid rent...

While the second Arbitrator rejected the landlord's claim, I find that she did so on the basis of the lack of information provided by the landlord and after considering the details regarding the allowance given to the tenant for her purchase of laminate in February 2013. Although the effect of her decision was to deny the landlord's claim for monthly

rent of \$775.00, the Arbitrator noted that she was unable to resolve the issue as to whether services had indeed been rendered by the tenant. She did not consider whether the landlord's omissions prevented the tenant and DW from performing the service that was to have led to the \$275.00 reduction in monthly rent set out in the Addendum to the Agreement.

I find that even if I were to accept the tenant's claim that her monthly rent is \$500.00, the amount she has been paying the landlord for most of this tenancy, the tenant's own sworn oral testimony and written evidence supports the landlord's claim that rent had not been paid in full to the landlord as of the date when the 10 Day Notice of July 30, 2013 was issued. By accepting the tenant's assertion that as of May 22, 2013, she did not owe any outstanding rent, an assertion predicated on a monthly rent of \$500.00, there is evidence from both parties that the tenant did not pay any monthly rent for June 2013 and did not pay anything towards her July 2013 rent until August 9, 2013. Based on the tenant's sworn testimony and the landlord's written evidence that the tenant was served with the landlord's 10 Day Notice on August 1, 2013, the tenant did not pay any portion of the \$2,925.00 identified as owing in the 10 Day Notice within five days. However, the tenant did apply for dispute resolution within that time period.

Section 26(1) of the *Act* requires a tenant to pay rent when it is due under the tenancy agreement, "whether or not the landlord complies with this *Act*, the regulations or the tenancy agreement, unless the tenant has a right under this *Act* to deduct all or a portion of the rent."

As outlined above, I find that the Arbitrator's decision of April 12, 2013 had already dismissed without leave to reapply the landlord's application to obtain a monetary award for \$550.00 of the amount identified as owing in the \$2,925.00 sum requested in the 10 Day Notice.

In addition, I too have problems with the adequacy of the landlord's claim that the correct monthly rent for this tenancy as of January 1, 2013 was \$775.00, and not the \$500.00 that has been paid by the tenant for the duration of this tenancy. Based on a balance of probabilities, I find that the correct monthly rent to be paid by the tenant for this tenancy as of January 1, 2013 was \$500.00, as per the Addendum to the Agreement. In reaching this determination, I find that the landlord has not adequately demonstrated that she has fulfilled her commitment to provide the tenant and the tenant's friend (DW) with the materials and plans whereby renovation work could be undertaken by DW. I find that the landlord has arbitrarily attempted to increase the tenant's monthly rent by claiming that as of the end date of the fixed term tenancy

agreement the tenant had not fulfilled the provisions of the third condition of the Addendum which had previously allowed her a \$275.00 reduction in monthly rent.

While I find that the landlord has not satisfied the third provision of the three conditions of the Addendum, the sworn testimony and written evidence of the parties demonstrated that the tenant has not fulfilled the second condition requiring that “rent is on time.” Although a pattern of late payment of rent may have been present for much of this tenancy, the only specific evidence before me related to the tenant’s history of rent payments for 2013. Section 47(1)(b) of the *Act* allows a landlord to end a tenancy for cause for repeated late payment of rent. Since the Addendum is silent as to the number of times when the tenant could pay her rent late without reverting to the higher monthly rent, I have employed the guideline provided to Arbitrators to determine late payment of rent, which allows for two late payments of rent before a tenancy can be ended for cause for late payment of rent. Although I admit that this may not be what was intended when the parties signed the Addendum, it does apply guidance to the interpretation of this term, albeit in the context of considering applications to end tenancy for cause.

The landlord provided undisputed sworn testimony, supported by the tenant’s own written evidence, that the tenant was late in paying her rent for February, March and April. Thus, I find that by the time that the tenant’s monthly rent became due for May 2013 on May 15, 2013, there is ample evidence that the tenant had failed to comply with the second provision of the Addendum requiring that rent be paid on time. As the Addendum noted that all three conditions had to be met in order to enable the tenant to qualify for the monthly rent reduction of \$275.00, I find that the correct monthly rent for this tenancy as of May 15, 2013 reverted to \$775.00, the amount cited in the Agreement.

Based on this determination, I find that the correct calculation of the amounts owing and paid during this tenancy were those provided by the tenant for the period prior to May 15, 2013 and were those provided by the landlord as of May 15, 2013, as set out below:

Month or Date	Amount Due	Amount Received from Tenant	Balance Owing
January 2013 Rent	\$500.00	\$500.00	0
February 15, 2013	\$500.00		\$500.00
February 20, 2013		\$400.00 paid (\$100 allowance given for laminate flooring)	0
March 15, 2013	\$500.00		\$500.00
March 18, 2013		\$250.00 (Pre-payment of ½	\$250.00

		of April 2013 Rent)	
March 20, 2013		\$500.00	-\$250.00
April 15, 2013	\$500.00		\$250.00
May 15, 2013	\$775.00		\$1,025.00
May 18, 2013		\$500.00	\$525.00
May 18, 2013		\$150.00	\$375.00
May 22, 2013		\$100.00	\$275.00
June 15, 2013	\$775.00		\$1,050.00
July 15, 2013	\$775.00		\$1,825.00
AMOUNT OWING AS OF JULY 31, 2013			\$1,825.00
August 9, 2013		ETransfer \$500.00 (accepted for use and occupancy only)	\$1,325.00
August 15, 2013	\$775.00		\$2,100.00
September 4, 2013		ETransfer \$500.00 (accepted for use and occupancy only)	\$1,600.00
AMOUNT OWING AT TIME OF HEARING			\$1,600.00

I do not find that the \$2,925.00 amount identified as owing by the landlord in the 10 Day Notice was correct. However, I am not satisfied that the tenant had grounds to withhold her payment of monthly rent for June or July 2013. I find that the tenant failed to pay at least \$1,550.00 of the amount included in the landlord's 10 Day Notice for outstanding rent owed for June and July 2013. I do not accept that the tenant had any valid right to refrain from paying rent that she clearly admitted she did not pay the landlord for either June or July 2013. I find her claim that the landlord's actions in contacting the Ministry to have her shelter allowance withheld has little bearing on her responsibility as the tenant to ensure that the landlord received outstanding rent within five days of issuing her a 10 Day Notice on July 23, 2013 for an amount that included unpaid rent owing from June and July 2013.

I also note that the issues before the initial Arbitrator, which prompted her to issue the tenant an Order of Possession, were separate and distinct from any subsequent failure by the tenant to pay monthly rent as requested by the landlord. As of August 1, 2013,

the tenant had an Order of Possession and realized that the landlord was seeking a new Order of Possession based on the tenant's failure to pay her rent on time.

Had the landlord limited the amount she was seeking in her 10 Day Notice of July 30, 2013 to an amount in the same magnitude as the tenant's undisputed unpaid rent for June and July 2013, there is every likelihood that I would have dismissed the tenants' application to cancel that 10 Day Notice and issued the landlord an Order of Possession. However, the landlord's identification of an amount owed in the 10 Day Notice of July 30, 2013 far in excess of the rent owing for June and July 2013 leads me to conclude that the tenant was justified in withholding payment and applying for dispute resolution because the landlord was seeking the payment of funds substantially in excess of what was actually owed the landlord at that time. Under these circumstances, I find that the tenant had legitimate grounds to withhold a significant portion of the amount identified as owing in the landlord's 10 Day Notice of July 30, 2013. Had she known that the landlord was only seeking payment of unpaid rent for June and July 2013, she may have been more inclined to make arrangements to pay these amounts prior to applying for dispute resolution. As such, I allow the tenant's application to cancel the 10 Day Notice as I find that the tenant had a right under section 25(1) of the *Act* to deduct a significant portion of the rent identified as owing in the landlord's 10 Day Notice.

As this tenancy is continuing, I order that the monthly rent for this tenancy as of January 1, 2013, be set at \$500.00. I further order that as of May 15, 2013, the tenant's actions demonstrate that she was no longer entitled to receive the \$275.00 rent reduction allowed under the Addendum as by that time she had been repeatedly late in paying her rent. The landlord remains at liberty to increase monthly rent in accordance with the rent increase provisions of the *Act*.

As this tenancy is continuing and so as to prevent a recurrence of divergent opinions as to what has been paid and what remains owing in this tenancy, I find that as of May 23, 2013, the tenant owed the landlord \$275.00 in unpaid rent (reflecting the increase in rent due on May 15, 2013). Based on the evidence before me, I find that as of the date of this hearing on September 12, 2013, the tenant continued to owe the landlord a total of \$1,600.00. Failure to pay the landlord outstanding rent owing, including the \$1,600.00 owed as of September 12, 2013, can lead to the landlord's issuance of a new 10 Day Notice. I find no reason to issue any further orders with respect to this tenancy.

In closing, I would encourage the parties to work together to see if they can expedite the tenant's efforts to obtain alternative subsidized housing or housing that the tenant can afford.

Conclusion

I allow the tenant's application to cancel the landlord's 10 Day Notice of July 30, 2013. The landlord's 10 Day Notice is of no force or effect. This tenancy continues.

I order that the monthly rent for this tenancy from January 1, 2013 until May 14, 2013 was set at \$500.00. As of May 15, 2013, I order that the monthly rent for this tenancy reverted to \$775.00, the amount identified on the Agreement, as there is evidence that the tenant had failed to abide by the terms of all three conditions of the Addendum to the Agreement by that date. The landlord remains at liberty to increase monthly rent in accordance with the rent increase provisions of the *Act*.

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 17, 2013

Residential Tenancy Branch