



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, RPP, FF

### Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), an order requiring the landlord to return the tenant's personal possessions, and for recovery of the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, the tenant confirmed that he had not served his documentary evidence to the landlord; therefore I have excluded the tenant's evidence from consideration, although the tenant was allowed to testify about his evidence.

Thereafter both parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matter*-A copy of the 10 Day Notice was not included with either party's evidence in the hearing file, although the tenant testified that he did submit a copy of the Notice served upon him by the landlord.

I allowed both parties to testify about the form and content of the Notice, with the understanding that both parties were required to supply the same information and that the tenant was to fax a copy of the Notice to me by the close of business the day of the hearing.

I must note that the tenant did fax in the copy and the Notice contained the same information as given by both parties at the hearing.

Issue(s) to be Decided

Is the tenant entitled to a cancellation of the 10 Day Notice, an order requiring the landlord to return the tenant's personal possessions, and to recover the filing fee?

Background and Evidence

The undisputed evidence shows that this tenancy began in January 2012, monthly rent is \$650, and the tenant paid a security deposit of \$350.

The landlord testified that he served the tenant a 10 Day Notice on October 3, 2013, listing an effective move out date of October 11, 2013, and unpaid rent of \$650.

The tenant stated that the landlord served the Notice to him on October 7, 2013 and that he received only the first page of the 2 page Notice.

Both parties agreed that the landlord had not signed or dated the Notice and that rent was paid by the tenant on November 6, 2013.

As to the tenant's request for an order requiring the landlord to comply with the Act, the tenant submitted that the landlord removed his 28' class A extension ladder and has not returned it.

In response, the landlord said he was not sure that the ladder belonged to the tenant as it was on common property and came with the residential property which he purchased a few years ago.

The landlord then told the tenant he would return the ladder on November 20, 2013, although the landlord requested to see the manifest listing that the tenant purchased the ladder from the original owner.

I must note that the manifest entered into evidence by the tenant did show the tenant purchasing the ladder from the estate of the former owner and the landlord was informed of such.

Analysis

As I informed the parties at the hearing, I was cancelling the 10 Day Notice issued by the landlord as the landlord failed to sign or date the Notice, as required by section 52 of the Act.

I therefore find that the Notice is invalid, unenforceable and I order that the Notice be cancelled with the effect that this tenancy will continue until it may otherwise end under the Act.

As to the tenant's request for an order requiring the landlord to return the tenant's personal possessions, I am satisfied that the tenant owned the 28' Class A extension ladder and that the landlord has removed the ladder.

Under authority of section 65(1)(e), I therefore order that the landlord return the extension ladder immediately to the tenant, the failure of which will entitle the tenant to seek monetary compensation through another application for dispute resolution.

As the tenant was successful with his application, I allow the tenant recovery of his filing fee of \$50. I direct the tenant to withhold the amount of \$50 from a future month's rent payment in satisfaction of his monetary award.

### Conclusion

The tenant is granted an order cancelling the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The tenant's request for an order requiring the landlord to return the tenant's personal possessions is granted.

The tenant is granted recovery of the filing fee of \$50, and he is directed to retain this amount from a future monthly rent payment in satisfaction of his monetary award.

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* and is being mailed to both the applicant and the respondent.

Dated: November 19, 2013

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Residential Tenancy Branch

