



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MNDC, OLC, PSF, FF

### Introduction

This hearing was convened by way of conference call in response to the tenants' application to cancel a Notice to End Tenancy for unpaid rent; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (Act), regulations or tenancy agreement; for an Order for the landlord to comply with the Act, regulations or tenancy agreement; for an Order for the landlord to provide services or facilities required by law; and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenants to the landlord, was done in accordance with section 89 of the Act. The tenant attending testifies that the landlord was served in person by the tenant on October 24, 2013.

One of the tenants appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Preliminary Issues

RTB Rules of Procedure 2.3 states that "if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss

unrelated disputes contained in a single application with or without leave to reapply.” In this regard I find that not all the claims on the tenants’ application are sufficiently related to the main issue to be dealt with together. I therefore will deal with the tenants’ application to cancel the 10 Day Notice to End Tenancy and the remainder of the tenants’ application is dismissed with leave to reapply.

### Issue(s) to be Decided

Are the tenants entitled to have the Notice to End Tenancy for unpaid rent cancelled?

### Background and Evidence

The tenant testifies that they received the first page of this Notice to End Tenancy on October 19, 2013. The Notice had an effective date of October 29, 2013. The tenants vacated the rental unit on that day as the landlord had turned off the tenants’ power. The tenants seeks to have the Notice cancelled and to recover their filing fee from the landlord.

### Analysis

I have reviewed the documentation provided by the tenants for this application. A 10 Day Notice is a two page document and a landlord is required to serve both pages upon the tenants as page two of the notice provides information to the tenant about the steps they can take to respond to the Notice or pay the rent with five days.

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In the documents before me there is only the first page of the 10 Day Notice to End Tenancy. The tenant has testified that they only received the first page of the 10 Day Notice to End Tenancy. In order for a legal notice to be valid and enforceable it must be complete. As a result I find that the tenants’ application to cancel the Notice would have been upheld had the tenants not vacated the rental unit.

Consequently, I find the tenants are entitled to recover the \$50.00 filing fee from the landlord as at the time of filing to cancel the Notice the tenants were still living in the rental unit.

### Conclusion

As the tenants have vacated the rental unit then the 10 day Notice, even if it was valid, no longer has any force or effect.

A copy of the tenants' decision will be accompanied by a Monetary Order for \$50.00 pursuant to s. 72(1) of the *Act*. The Order must be served on the respondent. Should the respondent fail to comply with the Order the Order may be enforced through the Provincial Court as an order of that Court.

As the tenants have now vacated the rental unit they are at liberty to reapply for a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

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: December 06, 2013

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Residential Tenancy Branch

