



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TBBR Holdings Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      For the tenant: CNR, RR  
For the landlord: OPR, MNR, FF

### Introduction

This hearing was convened as the result of the cross applications of the parties for dispute resolution seeking remedy under the Residential Tenancy Act (the “Act”).

The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) and for an order allowing a reduction in rent.

The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, and for recovery of the filing fee.

The tenant, his advocate, and the landlord attended the telephone conference call hearing.

The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties were provided the opportunity to present their evidence orally, refer to documentary evidence submitted prior to the hearing, respond to the other’s evidence, and make submissions to me.

I have reviewed the oral and written evidence of the parties 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*-I have determined that the portion of the tenant’s application dealing with a request for an order allowing a reduction in rent a request is unrelated to the primary issue of disputing the Notice. As a result, pursuant to section 2.3 of the Residential Tenancy Branch Rules of Procedure, I have severed the tenant’s Application and dealt only with the tenant’s application to cancel a 10 Day Notice and

the landlord's application seeking an order of possession for the rental unit and a monetary order.

### Issue(s) to be Decided

Has the landlord issued the proper notice to end the tenancy to the tenant?

If so, is either party entitled to the relief sought in their application?

### Background and Evidence

The landlord was questioned about a 10 Day Notice which was allegedly issued to the tenant, and which was the subject of this dispute resolution hearing. In response, the landlord stated that he had in fact issued the tenant such a notice, which was submitted into evidence by both the tenant and the landlord.

Upon examination of the document, the notice to the tenant seeking an end to the tenancy was in fact in letter form, addressed to the tenant, informing the tenant that he, the landlord, was ending the tenancy due to non-payment of rent.

The letter also went on to explain to the tenant the reasons for ending the tenancy.

In response to my question, the landlord confirmed not being aware of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities form available on the Residential Tenancy Branch ("RTB") website.

### Analysis

Section 46 of the Act states that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice and such notice is in compliance with Section 52 of the Act, requiring among other things, that the notice be on the approved form.

The landlord has issued no such notice in the approved form to the tenant.

I therefore find that the landlord has submitted insufficient evidence to support his application as he has not issued the tenant a notice in compliance with section 46 and 52 of the Act, and I therefore dismiss the landlord's application without leave to reapply.

I also dismiss the tenant's application seeking cancellation of a 10 Day Notice as no such Notice was issued. As such, the tenancy continues until it may otherwise end under the Act.

### Conclusion

The landlord's application is dismissed, for the reasons mentioned above.

The tenant's application seeking cancellation of a 10 Day Notice is dismissed, for the reasons mentioned above.

The portion of the tenant's application seeking an order allowing a reduction in rent is dismissed, with 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 *Residential Tenancy Act*.

Dated: May 19, 2014

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Residential Tenancy Branch

