



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

CNR, MNSD

### Introduction

This hearing dealt was convened as the result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") and a monetary order for a return of his security deposit.

The tenant and his advocate attended the telephone conference call hearing; the landlord did not attend.

The tenant submitted that he served the landlord with his Application for Dispute Resolution and Notice of Hearing by registered mail on January 12, 2015. The tenant provided the registered mail receipt showing the tracking number and date of mailing.

Based upon the submissions of the tenant, I find the landlord was served notice of this hearing and the tenants' application in a manner complying with section 89(1) of the Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present his 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*-I have determined that the portion of the tenant's application seeking a monetary order for the return of his security deposit was unrelated to the primary issue of disputing the Notice. As a result, pursuant to section 2.3 of the Rules and because the tenancy has not ended, I have severed the tenant's Application and dismissed that portion of the tenant's request, **with leave to reapply**. The hearing proceeded only upon the tenant's application to cancel a Notice to End Tenancy for Cause.

### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the Notice?

### Background and Evidence

The tenant submitted that the tenancy began on May 8, 2014, and monthly rent was \$500.

The tenant submitted that he received 1 page of the 4 page Notice, on December 30, 2014, not December 20, as stated on the Notice. The tenant supplied a copy of that 1<sup>st</sup> page, which, upon viewing, shows that the landlord used an out-of-date 10 Day Notice. The current 10 Day Notice used by the Residential Tenancy Branch is a 2 page form.

### Analysis

When a landlord issues a notice to end a tenancy and the tenant files an application to dispute the notice, the landlord must prove that there is sufficient reason under the Act to end the tenancy.

As the landlord did not appear in the hearing to support his Notice, after being properly served with the notice of this hearing and due to the landlord's failure to serve a 10 Day Notice in compliance with the Act, I order that the Notice dated December 20, 2014 be cancelled, with the effect that the tenancy continues until it may legally end under the Act.

### Conclusion

The tenant's application is granted as I have cancelled the landlord's Notice, dated December 20, 2014.

The portion of the tenant's application for a monetary order comprised of a return of his security deposit 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: January 27, 2015

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Residential Tenancy Branch

