



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REMAX CITY REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, MNDC, OLC, RP, FF

### Introduction

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

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent, dated February 15, 2015 ("10 Day Notice"), pursuant to section 46;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an order requiring the landlords to make repairs to the rental unit, pursuant to section 33; and
- authorization to recover the filing fee for this application from the landlords, pursuant to section 72.

The landlord GW ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses. The landlord confirmed that he is the owner and manager of the landlord company named in this application, RCR ("landlord company"), and that he had authority to represent the landlord company as an agent at this hearing (collectively "landlords").

The tenant testified that the landlords' agent personally served him with the 10 Day Notice on February 15, 2015. In accordance with section 88 of the *Act*, I find that the tenant was duly served with the landlord's 10 Day Notice on February 15, 2015.

The landlord testified that the tenant personally served him with the tenant's Application for Dispute Resolution hearing notice and written evidence package ("Application") on

February 17, 2015 and March 2, 2015, respectively. In accordance with section 89 of the *Act*, I find that the landlords were duly served with the tenant's Application.

Preliminary Issue – Respondent Parties named in Application

The landlord indicated that he is not the landlord of the rental unit, but only an agent for the owner of the property. The landlord stated that the owner, RA ("owner"), was not named in this Application. Both parties stated that the owner abandoned the rental unit property. However, the landlord stated that he was now in the process of selling the rental unit property on behalf of the owner. The landlord indicated that he is not a named landlord on the tenancy agreement, only the owner is. The landlord testified that he issued the 10 Day Notice to the tenant on behalf of the owner, as he was instructed to do so by the owner.

The tenant stated that he had no contact information for the owner, as no forwarding address was provided by the owner when he abandoned the property. The tenant stated that the owner lives in a different country. The tenant indicated that the only contact person for this tenancy, is the landlord named in this Application. The tenant indicated that he did not pay rent to the owner or discuss any tenancy-related issues with the owner, throughout this tenancy.

In accordance with section 1 of the *Act*, a landlord is defined as:

*"landlord", in relation to a rental unit, includes any of the following:*

*(a) the owner of the rental unit, **the owner's agent** or another person who, on behalf of the landlord,*

*(i) permits occupation of the rental unit under a tenancy agreement, or*

*(ii) **exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;***

(bold emphasis added)

The landlords are acting as agents for the owner of the rental unit. The landlord appeared at this hearing and acknowledged that he was an agent of the owner. The landlord testified with respect to the rent owing for this tenancy. The landlord issued a 10 Day Notice on behalf of the owner, during this tenancy. I find that the landlords named in this Application fall under the definition of a "landlord" under the *Act*. Accordingly, I find that the respondents named in this Application are properly named as "landlords." I will refer to them throughout this decision as "landlord" and "landlords."

This decision and the corresponding monetary order made in this decision are legal, binding and enforceable against the named landlords-respondents in this Application.

I do not find it necessary to add the owner as a landlord-respondent third party to this Application. The landlords named in this Application have held themselves out as agents of the owner and have acted on the owner's behalf during this tenancy. The tenant requires an enforceable judgment and decision. The owner has not provided any contact or other information to the tenant, as he abandoned the property. The owner has not had any dealings with the tenant throughout this tenancy.

### Issues to be Decided

Should the landlords' 10 Day Notice be cancelled?

Is the tenant entitled to a monetary award for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the tenant entitled to an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement?

Is the tenant entitled to an order requiring the landlords to make repairs to the rental unit?

Is the tenant entitled to recover the filing fee for this application from the landlords?

### Background and Evidence

The tenant testified that this tenancy began on July 1, 2011, for a fixed term of one year, after which it transitioned to a month to month tenancy. Monthly rent in the current amount of \$425.00 is payable on the first day of each month. A security deposit equivalent to one month's rent of \$425.00 was paid by the tenant and the owner continues to retain this deposit. The tenant indicated that when the owner abandoned the property, the tenant's security deposit was not returned to him. A written tenancy agreement governs this tenancy, but neither party provided a copy for this hearing.

The landlords issued the 10 Day Notice, indicating that rent in the amount of \$1,275.00 was due on February 1, 2015. A notation beside this amount indicates that rent of \$425.00 is owing for December 2014, January 2015 and February 2015.

The tenant stated that he was advised by a company, VP, that conducted a tenancy inspection at the rental unit in October 2014, that he was permitted to stay rent-free until a bank took over the property in three to five months. The tenant indicated that the rental unit property was listed for sale as of November 2014. The tenant indicated that the utilities in the rental unit were disconnected because the owner did not pay for them and went into arrears. The tenant seeks compensation of costs that he incurred of \$180.00 for buying propane and \$1,200.00 to purchase hot meals. The tenant also stated that he should not be required to pay rent from December 2014 until the present because of the disconnected utilities in the rental unit and the fact that the owner abandoned the property. The tenant stated that orders should be made against the owner to reconnect the utilities in the rental unit and fix leaks. The tenant stated that he would like to continue to reside in the rental unit.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. The landlords agreed to pay the tenant the total amount of \$155.00 by March 20, 2015, in full satisfaction of the tenant's claims against the landlords in the tenant's entire Application;
2. Both parties agreed that this tenancy will continue under the terms of the tenancy agreement, until it is ended in accordance with the *Act*;
3. The landlords agreed to withdraw the 10 Day Notice, dated February 15, 2015;
4. The landlords agreed that this settlement satisfies all unpaid rent owed for this tenancy, to date, including for the month of March 2015.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties gave verbal sworn affirmation at the hearing that they understood and agreed to the above terms, as legal, final, binding and enforceable, which settle all aspects of this dispute.

Conclusion

The landlord's 10 Day Notice, dated February 15, 2015, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

In order to implement the above settlement reached between the parties and as advised to both parties during the hearing, I issue a monetary Order in the tenant's favour in the amount of \$155.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlords do not abide by condition #1 of the above monetary agreement. The tenant is provided with this Order in the above terms and the landlord(s) must be served with a copy of this Order as soon as possible after a failure to comply with condition #1 of the above monetary agreement. Should the landlord(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: March 13, 2015

---

Residential Tenancy Branch

