



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNR, FF

### Introduction

This hearing dealt with an application by the tenant for an order setting aside a 10 Day Notice to End Tenancy and an order granting her more time in which to make that application. Both parties appeared and had an opportunity to be heard.

### Issue(s) to be Decided

- Should the tenant be given additional time in which to file this application?
- Is the notice to end tenancy valid?

### Background and Evidence

This month-to-month tenancy commenced July 25, 2013. The monthly rent of \$850.00 is due on the first day of the month. The tenant paid a security deposit of \$425.00. The parties did not sign a written tenancy agreement.

The tenant receives a monthly payment from the Ministry which pays a portion of her rent. When the tenant moved into this rental unit she was leaving a violent and abusive relationship and some of the usual paperwork was not required by the Ministry; in particular, the landlord was not asked to sign the usual Shelter Information Form.

The tenant testified that when her cheque did not arrive as usual at the end of March she made inquiries at the Ministry. She was told that they had received information that she had moved and they would require verification that she was still at this rental unit before they could reinstate her subsidy. They asked her to have the landlord complete a Shelter Information Form.

The parties gave different accounts about the conversations and events that occurred between March 28 and April 22. Part of the conversations included the landlord's desire to have the tenant sign a new tenancy agreement with a monthly rent of \$900.00. The upshot of these events is that the landlord did not sign the Shelter Information Form; the

tenant has not received any subsidy since March; and the rent has not been paid since March 1.

On April 2, 2015, the landlord issued and posted a 10 Day Notice to End Tenancy for Non-Payment of Rent. He only served the first page of the notice.

When the tenant informed him that this did not comprise proper service the landlord served her with a new notice to end tenancy. This time he served her with the old four page notice.

When he found out that this form was no longer valid he served the tenant with both pages of the current form on April 22. This time the notice said the effective date of the notice was April 22 and the date beside his signature was not complete.

The tenant filed this application for dispute resolution on April 22.

#### Analysis

The evidence is that both parties knew the first two notices were invalid. As the tenant did file her application disputing the third notice within five days of receiving it, an order for extension of time is not required.

Section 52 of the *Residential Tenancy Act* states that in order to be effective a notice to end tenancy must be in writing and must:

- be dated and signed by the landlord or tenant giving the notice;
- give the address of the rental unit;
- state the effective date of the notice;
- state the grounds for ending the tenancy; and,
- when given by the landlord, be in the approved form.

Section 68(1) provides that if a notice to end tenancy does not comply with section 52 an arbitrator may amend the notice if satisfied that the person receiving the notice knew, or should have known, the information that was omitted from the notice and, in the circumstances, it is reasonable to amend the notice.

The 10 Day Notice to End Tenancy for Non-Payment of Rent or Utilities form has been continually edited and refined over the years to make it simpler for landlords and tenants. Landlords are now only asked to complete the most basic of information such as name of their tenant, address of the rental unit, their own name and address, and the amount of the arrears; to date it; and to sign it. The complicated part of the process is calculating the date the tenant is deemed to have received the notice (Note: the

information required to do this calculation is on the second page of the form) and filling in a date ten days hence.

While I might have considered amending the notice if only one error had been made I am not prepared to correct more errors than that and end a tenancy based upon what was an incomplete notice. Accordingly, I find that the undated 10 Day Notice to End Tenancy served on the tenant on April 22, 2015 is not valid. The notice is set aside and is of no force or effect. The tenancy continues until ended in accordance with the *Residential Tenancy Act*. If the landlord wants to end this tenancy he must serve the tenant with a new, properly completed notice to end tenancy.

#### Conclusion

The 10 Day Notice to End Tenancy is set aside and is of no force or effect. The tenancy continues until ended in accordance with the *Residential Tenancy Act*. If the landlord wants to end this tenancy he must serve the tenant with a new, properly completed notice to end tenancy.

As the tenant was successful on her application she is entitled to reimbursement of the \$50.00 fee she paid to file it. Pursuant to section 72 this amount may be deducted from the rent due or coming due to the landlord.

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: June 15, 2015

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Residential Tenancy Branch

