



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SHANNON SHORES LEISURE RESORT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes                      CNR, OPR, MNR, MNSD, MNDC, O, FF

### Introduction

In the first application the tenants seek to cancel a ten day Notice to End Tenancy for unpaid rent dated June 19, 2015 and for more time to do so.

In the second application the landlord seeks an order of possession pursuant to that Notice and a monetary award for unpaid rent and late fees.

### Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that the ten day Notice has ended the tenancy? What, if anything, is the landlord owed?

### Background and Evidence

The rental unit is a two bedroom “plus den” condominium apartment. The tenancy started in December 2011. The monthly rent is currently \$1450.00, due on the first of each month, in advance. The landlord holds a \$725.00 security deposit.

The tenants received the ten day Notice on June 19, 2015 and issued their application six days later, on June 25<sup>th</sup>. Section 46 of the *Residential Tenancy Act* (the “Act”) requires that a tenant apply to dispute such a Notice within five days after receipt. The tenants were a day late. The attending tenant stated that she had had trouble getting out to issue the application.

The landlord’s representative was called on to establish the veracity of the Notice. For some reason, perhaps a lack of preparedness, he was unable to demonstrate that the amount demanded in the Notice; \$1350.00, was the amount owed when the Notice was signed by him on June 19<sup>th</sup>. His testimony about monies received showed that only \$925.00 was owing on that date. When asked about the discrepancy, he appeared to revise the payment history he had just sworn to. Even with the revision, the rent that was claimed to be owed on June 19<sup>th</sup> was less than the amount demanded in the Notice.

The tenants have made a number of payments since and the rent money, though some receipted as for “use and occupation,” has been paid up through August.

### Analysis

I grant the tenants an extension of one day to bring this application. There is no suggestion that the landlord will be prejudiced by it in any way.

The ending of a tenancy is a very serious matter. It results in the forced removal of a person from their home. A landlord is required to provide convincing and cogent evidence to justify eviction. Strict compliance with the terms of the *Act* will be required.

In this case the landlord's representative was unable to show that the amount demanded in the Notice was the amount (or even a lesser amount) than what was actually owed when the Notice was issued. For that reason the Notice is not valid and I set it aside.

It appears that the rent has been paid in full since the Notice and so the landlord's claim for unpaid rent has been satisfied.

The landlord's representative did not testify about late fees nor refer to any provision in any tenancy agreement to establish such a right. In this circumstance the claim for late fees must be dismissed.

### Conclusion

The tenants' application is allowed. The ten day Notice to End Tenancy dated June 19, 2015 is cancelled.

The landlord's application for an order of possession and a monetary award is dismissed.

This decision was rendered orally at hearing and 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: August 30, 2015

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Residential Tenancy Branch

