



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** CNR, FF

### **Introduction**

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for non-payment of rent. The notice of hearing dated June 11, 2015 was served on the landlord that same day, by registered mail. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

The tenant informed me that the tenancy had ended on June 30, 2015 and that he had moved out of the rental unit. Therefore the tenant's application to cancel the notice to end tenancy is moot and accordingly dismissed. The tenant requested the recovery of the filing fee

### **Issue**

Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

The monthly rent was \$1,650.00 payable on the first day of each month. The tenant stated that the landlord had served him with a one month notice to end tenancy effective June 30, 2015. He did not dispute that notice as he had decided to move out.

On June 02, 2015; the landlord served the tenant with a notice to end tenancy for nonpayment of rent. The tenant stated that he paid rent on June 08, 2015 and on June 11, 2015; he failed to dispute the 10 day notice. After having paid rent beyond the five day time frame, the tenant also disputed the ten day notice on June 11, 2015, which is beyond the legislated five day time frame.

The tenant stated that he disputed the notice to end tenancy because it had an effective date of June 12, 2015.

### **Analysis**

Based on the testimony of the tenant, I find that the tenant received the notice to end tenancy for unpaid rent, on June 02, 2015 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy.

The tenant moved out on June 30, 2015. Since he had decided to move out, he did not have to dispute the notice to end tenancy. In addition the tenant paid rent and disputed the 10 day notice beyond the legislated time frame of five days.

For the above reasons, I find that the tenant is not entitled to the recovery of the filing fee.

### **Conclusion**

The tenant's application is dismissed.

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: August 07, 2015

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Residential Tenancy Branch

