



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Greeneves Holdings  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

CNR, MNDC, RP

### Introduction

This hearing was held in response to the tenant's Application for Dispute Resolution in which the tenant has applied to cancel a 10 day Notice to end tenancy for unpaid rent, compensation for damage or loss under the Act and an Order the landlord make repairs to the rental unit.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

### Issue(s) to be Decided

Should the 10 day Notice to end tenancy for unpaid rent Issued on July 8, 2015 be cancelled?

Is the tenant entitled to compensation in the sum of \$2,000.00?

Must the landlord be Ordered to make repairs?

### Background and Evidence

The parties agreed that a tenancy agreement was signed; a copy was not supplied as evidence. The landlord used the Residential Tenancy Branch (RTB) tenancy agreement; an addendum was not attached to the agreement.

The tenancy commenced on June 1, 2014. Rent is \$850.00 and is due on the first day of each month.

The parties agreed that at times rent has been paid in cash and at other times, by cheque. The landlord has issued receipts for cash payments. The landlord said they when the tenant does not pay by cheque, by placing a cheque under the office door, he must then track the tenant down in order to obtain payment.

The Notice issued on July 8, 2015 had an effective date of July 18, 2015. The Notice indicated that the Notice would be automatically cancelled if the landlord received \$850.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The landlords' agent confirmed that before the Notice was issued the tenant attempted to pay July 2015 rent in cash and that the agent refused to accept the payment.

The tenant confirmed receipt of the Notice ending tenancy on July 8, 2015. The tenant applied for dispute resolution on July 13, 2015 and on that date served the landlord with the hearing documents. At the same time as the documents were personally served to the landlord the tenant attempted to pay rent again, in cash. The landlord confirmed that payment was again refused.

There was considerable discussion in relation to how rent should be paid. The agent said that the tenant has been told to pay rent by cheque, on the first day of each month. The cheque should be placed in an envelope, with the suite number recorded on the envelope and then slid under the managers' door.

The parties agreed that the landlord has issued receipts for cash payments.

The landlord confirmed that August and September 2015 rent has been paid.

### Analysis

I find that on July 8, 2015 the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental unit on July 18, 2015, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. There was no dispute that the tenant attempted to pay his rent before the Notice was issued and again on the fifth day after the Notice was served to the tenant. The landlord confirmed they refused to accept the payments as they were made in cash.

Even though the method of rent payment is in dispute, I find, pursuant to section 62(3) of the Act, that the tenant attempted to pay the rent within the required five days. The tenant cannot be evicted as a result of the landlord's refusal to accept payment. The tenant disputed the Notice as his first attempt to pay July 2015 rent was refused.

Therefore, as the landlord refused to accept payment of rent prior to the Notice being issued on July 8, 2015 and again on July 13, 2015 I find that the 10 day Notice to end tenancy for unpaid rent is cancelled. The tenancy will continue until it is ended in accordance with the Act.

As explained to the parties during the hearing, I have chosen to issue Orders, pursuant to section 62(3) of the Act, to ensure the method of rent payment is clear. The tenancy agreement does not set a specific method of payment, but rent is due on the first day of each month.

Therefore, pursuant to section 62(3) of the Act I find that the rent must be paid as follows:

- On or before the first day of each month;
- By cheque issued to the landlord;
- The cheque must be placed in an envelope marked with the tenants' unit number;
- The envelope must be handed to the landlords' agent no later than the first day of each month or placed under the door of the landlords' office no later than the first day of each month.

The tenant confirmed that July 2015 rent will be paid to the landlord, by cheque, no later than September 16, 2015. Payment will be made as set out above.

The tenant indicated several matters of dispute on his application and confirmed that the main issue was whether the tenancy would end. For disputes to be combined on an application they must be related. Not all the claims on this application were sufficiently related to the main issue to be dealt with together. Therefore, I dealt with the tenant's request to cancel the Notice ending tenancy. Pursuant to section 2.3 of the RTB Rules of Procedure, the balance of the application is severed and dismissed with leave to reapply.

#### Conclusion

The 10 day Notice ending tenancy for unpaid rent issued on July 8, 2015 is of no force and effect and is cancelled.

An Order has been issued in relation to the method of rent payment.

The balance of the application is dismissed with leave to reapply.

This decision is final and binding 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: September 15, 2015

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Residential Tenancy Branch

