



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PREMIER CHOICE INVESTMENTS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

The landlord is the corporation. The applicant Mr. C.G. is an onsite employee or assistant.

The landlord seeks an order of possession pursuant to a ten day Notice to End Tenancy dated September 9, 2015 and for a monetary award for unpaid rent.

The tenant denies receiving the Notice until she received the landlord's application. She says she has paid the rent for September and October 2015 but not November.

All parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that the tenant has been served with the Notice? If so, does it show that the tenancy has ended or that the landlord is owed rent?

### Background and Evidence

The rental unit is the one bedroom lower portion of one half of a side by side duplex.

The tenancy started August 1, 2015. The monthly rent is \$800.00. Mr. R. for the landlord says it holds \$250.00 paid by the tenant towards an agreed \$400.00 security deposit. The tenant says she's paid \$400.00 as a security deposit.

The landlord's representative Mr. C.G. testifies that he served the tenant with the ten day Notice to End Tenancy on September 9, 2015 by attaching it to her door. Mr. W.M., a tenant in the complex, testified that he was there and witnessed it.

The tenant says she did not receive the Notice until early October when she received the application and notice of hearing documentation.

The landlord's representative Mr. R. testifies that the tenant paid August rent on August 6<sup>th</sup> along with a \$50.00 contribution towards the balance owing for the security deposit. He says that the tenant has not paid any rent since.

Mr. C.G., who attends to collect rents at the rental units in the complex, says the same thing. He says he carries a receipt book and provides receipts for rents paid. He says he has a receipt for the \$850.00 the tenant paid August 6<sup>th</sup> but has not received any other money.

The tenant says she paid the rent for September in cash on September 9<sup>th</sup> and the October rent in cash on October 5<sup>th</sup>. She says the landlord will not issue receipts.

The tenant has complaints and concerns about the state of the premises and the need for repair. It was made known to the parties during the hearing that such claims cannot be dealt with unless and until the tenant makes an application for dispute resolution to deal with those matters.

### Analysis

I find that the tenant was duly served with the ten day Notice to End Tenancy on September 9, 2015 by posting on her door. The event was witnessed by an apparently impartial person; another tenant in the complex. I consider that had the tenant only received the ten day Notice with the application package in October, she would reasonably have raised that fact with the landlord immediately or made her own application to challenge the Notice and for an extension of time to do so. There is no evidence that she took either of those steps.

I find that the tenant has not paid the September or October rents. The onus of establishing payment of a debt (like rent) is on the debtor. The *Residential Tenancy Act* (the "RTA"), s. 26(2), imposes an obligation on a landlord to provide a tenant with a receipt for rent paid in cash. A tenant is entitled to demand such a receipt and the tenant who pays without obtaining one puts herself in a difficult position, should the payment be disputed.

On the evidence here, the tenant has not provided any evidence to corroborate payment, for example; a cash withdrawal receipt or a witness, and so, on a balance of the evidence, she has not proved payment of the September or October rents.

Conclusion

As a result of the Notice, and by operation of s. 46 of the *RTA*, this tenancy ended on September 21, 2015 and the landlord is entitled to an order of possession.

I grant the landlord a monetary award of \$2400.00, as claimed, for unpaid September, October and November rents, plus recovery of the \$50.00 filing fee. The tenant has not proved payment of the entire \$400.00 deposit and I find the landlord holds and is entitled to retain the \$250.00 security deposit it acknowledges, in reduction of the amount awarded.

There will be a monetary order against the tenant for the remainder of \$2200.00.

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: November 25, 2015

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Residential Tenancy Branch

