



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GREY MOUNTAIN HOLDINGS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 27 minutes. The landlord's agent, AL ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he is the building manager for this rental property and that he had authority to speak on behalf of the landlord company named in this application, as an agent at this hearing.

The landlord testified that he personally served the tenant with the landlord's application for dispute resolution hearing package ("Application") on October 25, 2015. When questioned as to why the Application, which was filed on October 2, 2015, was not served within 3 days as required, the landlord stated that he was unable to find the tenant, who was evading personal service. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was served with the landlord's application on October 25, 2015.

During the hearing, the landlord confirmed that he was withdrawing the landlord's Application and he would reapply at a later date. The landlord failed to submit any documentary evidence for this hearing. The landlord did not have the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice") in front of him during the hearing and a copy was not submitted for this hearing. The landlord was unable to

confirm when this tenancy began, as he did not have the tenancy agreement in front of him and a copy was not submitted for this hearing.

During the hearing, I advised the landlord that the landlord's 10 Day Notice that is the subject of this hearing, issued to the tenant in July 2015, is cancelled and of no force or effect. I advised the landlord that he must issue a new 10 Day Notice or another notice to end tenancy to the tenant in order to seek an order of possession in the future.

During the hearing, I also advised the landlord that the landlord's Application to recover the \$50.00 filing fee is dismissed without leave to reapply. The landlord must bear the cost of this fee.

I advised the landlord that a new application must be filed and another filing fee must be paid if the landlord wishes to seek future relief against the tenant.

During the hearing, I advised the landlord that the landlord has leave to reapply for the monetary order for unpaid rent.

### Conclusion

The landlord's application for a monetary order for unpaid rent is withdrawn.

The landlord's application for an order of possession based on the 10 Day Notice issued in July 2015, is dismissed without leave to reapply. The 10 Day Notice is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

The landlord's application to recover the \$50.00 filing fee is dismissed without leave to reapply.

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: December 02, 2015

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Residential Tenancy Branch

