



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SINGLA HOMES (2005) LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

On September 2, 2016 the Landlord made an Application for Dispute Resolution by Direct Request (the “Application”) requesting an Order of Possession and a Monetary Order for unpaid rent. This process involves a non-participatory hearing based on an undisputed notice to end tenancy for unpaid rent and documentary evidence.

The Application was considered by an Adjudicator on September 13, 2016. In an Interim decision rendered on the same date under this same file number, the Adjudicator found the Landlord had served the Notice of Direct Request Proceeding documents to the Tenant by registered mail on September 8, 2016. However, the Adjudicator also determined that the Application could not proceed by way of a non-participatory hearing as the tenancy agreement provided by the Landlord did not disclose the date that rent was payable under the agreement. Therefore, the Application was scheduled by the Residential Tenancy Branch to be heard and determined in this participatory hearing.

However, even though I allowed the telephone line to remain open for ten minutes only the Tenant appeared for this participatory hearing and provided affirmed testimony. The Tenant testified that he disputed the notice to end tenancy for unpaid rent dated August 11, 2016 and stated that the Landlord had served him with a notice to end tenancy for Landlord’s use of the property which entitled him to receive one month’s rent as compensation. The Tenant testified that he had also paid rent for November 2016 which the Landlord had accepted and that the tenancy had been re-instated.

### Analysis & Conclusion

Rule 10.1 of the Dispute Resolution Proceedings Rules of Procedure states that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the Application, with or without leave to re-apply.

As the applicant Landlord failed to appear for this hearing and prove the notice to end tenancy for unpaid rent which was the subject of this hearing, I find that I was unable to determine the validity of that notice. In addition, the Tenant provided undisputed testimony regarding the validity of the notice to end tenancy for unpaid rent and it appears that another different notice to end tenancy for the Landlord's use of the property has been served in this tenancy and that it appears that this tenancy may have been re-instated.

Based on the foregoing, I am only able to conclude that the Landlord's Application is to be dismissed without leave to re-apply. This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: November 03, 2016

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Residential Tenancy Branch