



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR

### Introduction

This hearing was convened in response to an application by the Tenant to cancel a notice to end tenancy pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant did not attend the hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

### Background and Evidence

The tenancy started on September 15, 2015. Rent of \$850.00 is payable on the first day of each month. The Tenant failed to pay the full rent for April 2017 and on April 5, 2017 the Landlord posted a 10 day notice to end tenancy for unpaid rent (the “Notice”) on the door. The Notice indicates that the amount of \$350.00 was due as of April 1, 2017. The Tenant disputed the Notice and also paid \$425.00 sometime in the beginning of April 2017. Although given opportunity to provide evidence of the date of that payment, the Landlord was unable to state the date of the payment. The Landlord did not issue a receipt “for use and occupancy only”. The Tenant then further paid additional amounts of \$75.00 and \$370.00. The Landlord again did not issue receipts “for use and occupancy only”. The Tenant has not moved out of the unit.

### Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the Landlord's evidence of payment of more than the amount stated on the Notice sometime in early April 2017 I find that the Landlord has not provided evidence to show that the Tenant failed to pay the outstanding amount of the Notice within the time allowed. Given the Landlord's evidence and despite the Tenant not appearing to pursue its application, I find that the Notice is not valid and must be cancelled.

### Conclusion

The Notice is cancelled on the Landlord's own evidence.

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: May 18, 2017

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Residential Tenancy Branch