



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PACE PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

On April 20, 2017, the Landlord submitted an Application for Dispute Resolution for an order of possession, and for a monetary order for unpaid rent or utilities.

The matter was set for a conference call hearing. Both parties attended the hearing.

The parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issues to be Decided

Is the Landlord entitled to an order of possession for unpaid rent?

Is the Landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The Landlord Ms. P.B. testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("the Notice") was served to the Tenant in person on April 5, 2017. The Landlord provided documentary evidence that is in conflict with the Landlord's testimony that the 10 Day Notice was served in person.

The Landlord provided a proof of service document that indicates the 10 Day Notice was served on April 5, 2017, by posting it to the Tenant's door with tape. The proof of service document indicates that C.S. observed P.B. attach the 10 Day Notice to the Tenant's door.

P.B. testified that C.S. was not actually present to observe service of the Notice, but C.S. was connected via a video call running on her phone. P.B. testified that she did not have her phone pointed at the Tenant.

When the Landlords were asked about service of the Notice, I found their testimony to be hesitant, choppy, and unclear. I had to ask the Landlords to repeat their testimony

on a couple of occasions. P.B. stated she served the Tenant a 5 Day Notice and then served a 10 Day Notice.

The Tenant testified that he was not served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 5, 2017. The Tenant testified that he received a 10 Day Notice that does not bear his name. He testified that he informed the Landlord of this, and the Landlord said she would get back to him. He testified that the he then received the Notice of Hearing.

The Tenant testified that he paid his April rent in the amount of \$750.00 to the Landlord via money order. The Tenant acknowledges that he owes the Landlord additional rent and money for utilities. The Tenant was hoping to be permitted to make payments to the Landlord.

The parties were offered an opportunity to settle the matter under section 63 of the Act; however, an agreement could not be reached.

### Analysis

Based on the evidence before me, and the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant never received the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 5, 2017.

The parties provided conflicting evidence on what was served and how it was served. The Landlord's evidence is internally inconsistent on how the 10 Day Notice was served. I find that the Landlord's evidence on service of the notice is not reliable. The Landlord did not respond to the Tenant's submission that he received a 10 Day notice for a different person.

I set aside the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 5, 2017.

The Landlord's application for an order of possession and a monetary order for unpaid rent and utilities is dismissed.

If the Landlord wants to pursue an order of possession and monetary order for unpaid rent and utilities, the Landlord will need to issue a new 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The tenancy will continue until ended in accordance with the Act.

### Conclusion

The Landlord provided insufficient evidence that the Tenant was served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 5, 2017.

The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 5, 2017 is set aside.

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: June 16, 2017

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Residential Tenancy Branch