



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNR OPR FF

### **Introduction:**

Only the tenants attended the hearing and gave sworn testimony. They said the landlord served them with a 10 Day Notice to End the Tenancy for non-payment of rent dated January 7, 2018 to be effective January 16, 2018 by posting it on their door. The tenant said he served the landlord with their Application for Dispute Resolution dated January 12, 2018 personally and his girlfriend witnessed it. The tenant applies pursuant to section 46 of *The Residential Tenancy Act* (the Act) to cancel the Notice to End Tenancy.

**Issues:** Is the tenant entitled to any relief?

### **Background and Evidence:**

Only the tenant attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. He described the situation. He said the home has two bedrooms, a living room and a kitchen plus the landlord's separate suite. He said a room mate was renting and occupying the other bedroom and he offered the second bedroom to them in November 2016 after his brother moved out. Rent was \$600 a month and he paid this room mate directly in cash. No security deposit was requested so none was paid. The room mate told them that the landlord did not want to deal with more than one person so they never interacted with the landlord, except on one occasion when they were moving in and he asked them if they were taking the room on the corner. The tenant said there was no lease and rent was paid in cash and utilities were included.

The room mate left in October 2017 and since then, the tenant has paid his \$600 directly to the landlord or his wife. He said the landlord has told him that he is not renting rooms, he rents the whole basement. He said he cannot find a good room mate to take the other room and in any case, that is the landlord's responsibility. The tenant says he does not understand the Notice to End Tenancy. He does not know where the

landlord got his number of \$2200 rent owed and \$240.94 in utilities. There is no lease to his knowledge and he paid his rent of \$600 which included utilities. He asks to set aside the Notice to End Tenancy.

**Analysis:**

The Notice to End a Residential Tenancy is based on non-payment of rent. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes that rent is owed or where the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from the rent. I find the tenant disputed the Notice in time so it is the landlord's responsibility to prove on a balance of probabilities that rent was owed, the amount and that it remains unpaid.

Since the landlord did not attend the hearing to support his Notice to End Tenancy and did not provide any documentary evidence to prove the amounts of rent owed, I hereby set aside the Notice to End Tenancy dated January 7, 2018. The tenancy is continued until ended in accordance with the Act.

**Conclusion:**

**I set aside and cancel the Notice to End Tenancy dated January 7, 2018.** The tenancy is continued until ended in accordance with the Act. I find the tenant entitled to recover the filing fee as he was successful.

**I HEREBY ORDER that the tenant may deduct \$100 from his next rental payment to recover his filing fee.**

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: March 13, 2018

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Residential Tenancy Branch