



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding AEKUM DEVELOPMENT LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, FFT

### Introduction

On July 6, 2018, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing with occupants S.D., L.M., and R.B.; however, the Landlord did not attend the hearing. All in attendance provided a solemn affirmation.

The Tenant advised that he served the Landlord the Notice of Hearing package and evidence by registered mail on July 13, 2018 (the registered mail tracking number is on the first page of this decision). In accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was deemed to have received the Tenant’s Notice of Hearing package and evidence on July 18, 2018.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- the Tenant entitled to recover the filing fee?

Background and Evidence

The Tenant stated that he signed the most current tenancy agreement with Y.C., an agent of the Landlord. He advised that the tenancy started on May 1, 2018 as a fixed term tenancy of one year. He submitted that rent was established at \$4,000.00 per month, due on the first day of each month. He also confirmed that a \$2,000.00 security deposit was paid to Y.C.

The Tenant advised that he paid rent in cash to Y.C. for May 2018 and June 2018, and he received receipts for rent payments. He submitted that he received a letter from lawyer D.L., dated June 19, 2018, advising that the rental unit was in foreclosure and that future rent payments were to be made to D.L. instead of to the Landlord. He stated that he also received copies of Supreme Court Orders outlining the Foreclosure and Conduct of Sale of the property.

The Tenant stated that, as per the instructions, he electronically transferred July 2018 rent to D.L. on July 1, 2018; however, on July 3, 2018, Y.C. posted the Notice to his door, indicating that \$4,000.00 for rent was owing on July 1, 2018. The effective end date of the Notice was July 13, 2018. He stated that he has also paid August 2018 rent to D.L.

The Tenant corresponded with D.L. and suspects that Y.C. acted as an agent for the Landlord. He believed that Y.C. did not own the house, but alleged that he fraudulently rented it. He discovered that the Landlord owned many properties; however, there were also many debts owing on these properties. He speculated that the Landlord may have owned the property in the past, but the Landlord had no legal right to rent the property at the time the tenancy agreement was signed.

Analysis

As the Landlord has not appeared at the hearing to provide testimony with respect to ownership of the property, and based on the undisputed evidence before me, I am satisfied that Y.C., as agent for the Landlord, was not authorized to collect rent or serve the Notice for this property. As such, I am not satisfied of the validity of the Notice and I find that the Notice of July 3, 2018 is cancelled and of no force and effect.

As the Tenant was successful in this Application, I find that the Tenant is entitled to recover the \$100.00 filing fee paid for this Application. Consequently, I authorize the Tenant to deduct \$100.00 from a future month's rent payment.

### Conclusion

Based on the above, I hereby order that the 10 Day Notice to End Tenancy for Unpaid Rent and Utilities of July 3, 2018 to be cancelled and of no force or effect.

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: September 5, 2018

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Residential Tenancy Branch