



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Aquilini Properties LP  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, FFT

### Introduction

This decision is in respect of the tenants' application for dispute resolution under the *Residential Tenancy Act* (the "Act"). The tenants seek the following remedies:

1. an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"); and,
2. an order for compensation for the filing fee.

A dispute resolution hearing was convened at 11:00 A.M. pm January 25, 2019 and the tenant N.B. attended, were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The landlord's agent did not attend.

While I have reviewed all oral and documentary evidence submitted that met the requirements of the *Rules of Procedure*, under the Act, and to which I was referred, only evidence relevant to the issues of this application are considered in my decision.

I note that section 55 of the Act requires that when a tenant applies 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's notice to end tenancy complies with the Act.

### Issues to be Decided

1. Are the tenants entitled to an order cancelling the Notice?
2. Are the tenants entitled to compensation for the filing fee?

### Background and Evidence

The tenant called into the hearing at 11:00 A.M. and confirmed basic file information with me. She confirmed that there are two tenants on the tenancy and as such I have amended the cover page of this decision to reflect this fact. The tenant and I remained

on the line for six minutes at which point the hearing was concluded. No one from the landlord called into the hearing during this time.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Where a tenant applies to dispute a notice to end the tenancy, the onus is on the landlord to prove, on a balance of probabilities, the ground on which the notice is based.

As the landlord failed to attend the hearing they have not met the onus of proving the ground on which the Notice was issued. Therefore, the Notice issued and served on December 10, 2018, is hereby cancelled and is of no force or effect. The tenancy will continue until it is ended in accordance with the Act.

As the tenants were successful in their application I grant them a monetary award of \$100.00 for the filing fee. In full satisfaction of this award the tenants may retain \$100.00 from the rent for February 2019.

### Conclusion

I hereby cancel the Notice issued on December 10, 2018. The tenancy will continue until it is ended in accordance with the Act.

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: January 25, 2019

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Residential Tenancy Branch