



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “Act”), to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued January 7, 2019. The matter was set for a conference call.

Both parties attended the conference call hearing and were affirmed to be truthful in their testimony. Both parties were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties confirmed receipt of all evidence submissions.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Should the 10-Day Notice issued on January 7, 2019, be cancelled?
- If not, is the Landlord entitled to an order of possession?

### Background and Evidence

The testimony of both parties confirmed that the tenancy began seven years ago, neither party could testify to the exact date. Rent in the amount of \$609.00 is due on the first day of each month. A security deposit of \$297.50 was paid by the Tenant and are being held by the Landlord. The tenant continues to reside in the rental unit.

Both parties also agreed that the Tenant was awarded a rent reduction of \$170.00 per month, in a previous decision issued by an Arbitrator from the Residential Tenancy Branch on November 8, 2016. A copy of that decision was submitted into documentary evidence by the Tenant.

The parties agreed that the rent reduction started December 1, 2016, and would continue until the repairs, ordered by the Arbitrator, were completed.

The Landlord testified that the ordered repairs were completed as of April 30, 2018. The Landlord provided a witness, who testified that the ordered repairs were completed as of August 30, 2018. The Landlord testified that as the repairs have been completed and that the Tenant should be paying the full rent of \$609.00 per month.

The Landlord testified that they served the 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice) to the Tenant on January 7, 2019, in person. The Landlord testified that the Tenant is outstanding \$876.00 in rent as of the date of this hearing; consisting of \$169.00 for September, October, November, and December 2018, and January 2019. The Landlord also testified that the Tenant had not paid the outstanding amount of rent despite their application to dispute the Notice. The landlord requested the Order of Possession.

The Tenant testified that as of the date of this hearing the ordered repairs were still not completed. The Tenant testified that as the repairs have not been completed, the Tenant should be paying the reduced rent of \$440.00 per month and that she is not behind on her rent.

The Landlord testified that he has not applied for a hearing to have the rent reduction removed. The Landlord also agreed that the Tenant has been paying the reduced rent amount of \$440.00 per month.

### Analysis

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

I accept the testimony of these parties that a legal rent reduction was in place for this tenancy and that this rent reduction would remain in effect until the ordered repairs were completed.

I also accept that the parties to this dispute disagree as to the Landlord's compliance with the previous Arbitrators repair order. I have reviewed the decision issued on November 8, 2017; the decision states the following:

*"If there is any dispute as to whether the Landlord has complied with my Order, the Landlord must submit an application for dispute resolution requesting an end to the rent reduction, supported by evidence of repairs done."*

As the parties to this dispute do not agree that the ordered repairs have been completed, I find that pursuant to the decision dated November 8, 2016, the Landlord will need to submit an application for dispute resolution requesting an end to the rent reduction.

Additionally, I find that the Tenant did pay the reduced rent in full for September, October, November, and December 2018, and January 2019, and that there is no outstanding unpaid rent for this tenancy. Therefore, I find the Notice was of no effect under the Act, and I must allow the Tenants' application to cancel the Notice.

### Conclusion

I grant the Tenant's Application to cancel the Notice, issued January 7, 2019, as I find there is no unpaid rent for this tenancy. The tenancy will continue until 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 *Residential Tenancy Act*.

Dated: February 25, 2019

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Residential Tenancy Branch