



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASTERA PROPERTIES INC and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, MNDCT, FFT

### Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”), for monetary compensation, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing, while no one called in for the Tenant during the approximately 10-minute hearing. The Landlord was affirmed to be truthful in her testimony and stated that they were not served with the Notice of Dispute Resolution Proceeding package. The Landlord testified that they received the hearing information from calling the Residential Tenancy Branch after they were served with the Tenant’s evidence. Although the Landlord did not receive the notice of hearing documents, as they received them from the Residential Tenancy Branch and were present at the hearing, the hearing continued to consider whether the Landlord was entitled to an Order of Possession.

### Issues to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent be cancelled?

If the 10 Day Notice to End Tenancy for Unpaid Rent is upheld, is the Landlord entitled to an Order of Possession?

Is the Tenant entitled to Monetary Compensation?

Should the Tenant be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

The Landlord testified that the 10 Day Notice was cancelled when the Tenant paid the outstanding rent the day after receiving the 10 Day Notice. The Landlord confirmed that there is no longer a 10 Day Notice in dispute and that they are not seeking an Order of Possession.

### Analysis

As stated by rule 7.3 of the *Residential Tenancy Branch Rules of Procedure*, if a party does not attend the hearing, the hearing may continue, or the application may be dismissed. As the Tenant did not attend the hearing based on an application filed by the Tenant, I dismiss that Application for Dispute Resolution, without leave to reapply.

As stated in Section 55 of the *Act*, when a tenant's application to dispute a notice to end tenancy is dismissed, the Landlord must be granted an Order of Possession. However, I accept the testimony of the Landlord that the outstanding rent was paid within 5 days pursuant to Section 46(4)(a) of the *Act*. As such, the 10 Day Notice dated January 17, 2019 was cancelled. Therefore, I accept that there is no longer a 10 Day Notice in dispute and therefore I decline to issue an Order of Possession.

### Conclusion

The Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

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 07, 2019

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Residential Tenancy Branch