



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Menkis Construction Ltd. and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR FF

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on June 3, 2019, at 11:00 AM. The Tenant applied for the following remedy, pursuant to the *Residential Tenancy Act* (the Act):

- cancellation of the Landlord's 10-Day Notice to End Tenancy for unpaid rent (the Notice).

The Tenant attended the teleconference hearing; however, the Landlord did not. The Tenant testified that he sent a copy of his application and evidence package to the Landlord by registered mail on April 27, 2019. I am satisfied the Landlord has been sufficiently served with the application package and the Notice of Hearing on May 2, 2019, the fifth day after their registered mailing, pursuant to section 90 of the Act.

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.

### Issue to be Decided

- Should the Notice be cancelled?

### Background, Evidence, and Analysis

The Tenant stated that he received the Notice on April 25, 2019. This Notice was provided into evidence and indicated that rent had not been paid in full.

In the matter before me, the Landlord has the onus of proof to prove that the Notice is valid. I find that the Landlord was properly served with the Notice of Hearing and failed to attend the hearing to prove the allegation within the Notice.

Therefore, as the Landlord did not attend the hearing by 11:10 AM on June 3, 2019, I cancel the Notice, dated April 25, 2019.

I Order the tenancy to continue until ended in accordance with the Act.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was successful in his application, I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution. The Tenant may deduct the amount of \$100.00 from one future rent payment.

### Conclusion

The Tenant's application is successful. The Notice issued by the Landlord dated April 25, 2019, is cancelled.

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: June 4, 2019

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Residential Tenancy Branch