



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, MNDCT, OLC

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- a monetary order for compensation for loss or damage under the *Act*, regulation or tenancy agreement.

The tenant participated in the teleconference, the landlord did not. The tenant testified that he served the landlord the Notice of Hearing Documents and Application personally on April 26, 2019. The landlord submitted documentary evidence directly addressing the tenants' documentary evidence. I am satisfied that the landlord was aware of today's hearing, accordingly, the hearing proceeded and completed in the landlords absence. The tenant gave affirmed testimony. The tenant was given full opportunity to present his evidence orally and in writing and was given an opportunity to make submissions and arguments to me.

### Preliminary Issue- Severance

Residential Tenancy Branch (RTB) Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the 10 Day Notice is not sufficiently related to any of the tenant's other claims to warrant that they be heard together. The parties were given a priority hearing date in order to address the question of the validity of the Notice to End Tenancy.

The tenant's other claims are unrelated in that the basis for them rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the Notices to End Tenancy. I exercise my discretion to dismiss all of the tenant's claims with leave to reapply except cancellation of the notice to end tenancy.

#### Issue(s) to be Decided

Is the tenant entitled to have the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities set aside? If not, is the landlord entitled to an order of possession?

#### Background and Evidence

The tenant gave the following testimony. The tenant testified that the tenancy began on December 1, 2018 with the monthly rent of \$498.00 payable on the first of each month. The tenant testified that due to administrative errors on the part of the landlord, more rent was charged than required. The tenant testified that all rental arrears have been paid and that the property manager has been easier to deal with in the last month. The tenant testified that the landlord advised him that they would not pursue the notice and that the tenancy continues.

#### Analysis

The landlord submitted a letter dated May 14, 2019 to the Branch advising that the tenant has paid all rental arrears and that the tenancy is ongoing. The landlord advised in the letter that they are no longer pursuing the notice. Based on the corroborating letter submitted by the landlord and the tenants' undisputed testimony, I hereby set aside the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 22, 2019 with an effective date of May 3, 2019.

Conclusion

The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 22, 2019 is set aside; it is of no force or effect. The tenancy continues.

The tenants' application for a monetary claim and for the landlord to comply with the Act, regulation or tenancy agreement is dismissed with 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: June 04, 2019

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Residential Tenancy Branch