



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR

### 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.

Both parties attended the hearing via conference call provided testimony. The tenant stated that the landlord was served with the notice of hearing package via Canada Post Registered Mail on June 7, 2019. The landlord disputed this stating that no such package was received. The tenant was unable to provide sufficient details of any service details, however, the landlord stated that he received a text message from the tenant and was able to contact the Residential Tenancy Branch for the Hearing details. The landlord stated that he was able to proceed with no issues. On this basis, I find that as both parties have attended and are able to proceed that both parties have been sufficiently served as per section 90 of the Act.

The tenant provided testimony that the landlord was served with the submitted documentary evidence via Canada Post Registered Mail. The landlord disputes this claim stating that no evidence was received or attempted service made. The tenant was unable to provide any details of this Registered Mail package. On this basis, I find that the tenant has failed to provide sufficient evidence of service of the documentary evidence and as such, the tenant's evidence is excluded from consideration in this hearing. The landlord provided testimony that the tenant was served with his documentary evidence via Canada Post Registered Mail on July 12, 2019 and has provided the Canada Post Registered Mail Tracking Number as confirmation (as noted

on the cover of this decision). The tenant disputes that any documentary evidence was received. A review of the Canada Post online tracking website using the landlord's tracking number revealed that Canada Post received the package for delivery on July 12, 2019 and that a notice card was left for pickup of the package on July 15, 2019. On this basis, I accept the evidence of the landlord over that of the tenant and find that the tenant was sufficiently served with the landlord's documentary evidence. No further issues were noted by either party. The hearing proceeded.

### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 10 Day Notice?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord provided undisputed testimony that no signed tenancy agreement exists, but a verbal agreement was made in which the tenant pays a monthly rent of \$1,250.00 payable on the 1<sup>st</sup> day of each month.

Both parties confirmed the landlord served the tenant with a 10 Day Notice dated June 1, 2019 which states in part that the tenant failed to pay rent of \$5,250.00 that was due on June 1, 2019. It also provides for an effective end of tenancy date of June 11, 2019.

The tenant has argued that there is no unpaid rent as claimed by the landlord on the 10 Day Notice dated June 1, 2019.

The landlord claims that the tenant owed rental arrears as of the date of this hearing for:

\$1,150.00	Unpaid Rent, March 2019
\$1,250.00	Unpaid Rent, April 2019
\$1,250.00	Unpaid Rent, May 2019
\$1,250.00	Unpaid Rent, June 2019
\$1,250.00	Unpaid Rent, July 2019

Extensive discussions with the landlord revealed that the landlord was unable to provide the particulars of all of the rental arrears. The amount of rental arrears owed as per the

10 Day Notice is \$5,250.00. Using the limited details provided by the landlord as noted above, \$4,900.00 is owed. The landlord was given repeated opportunities to explain the shortfall of \$350.00, but was unable to provide sufficient details. The landlord repeatedly referred to a document (possibly a tenant ledger) that details rent beginning January 12, 2018 with handwritten notations ending July 2019. The landlord was unable to provide the details of the shortfall using this document. The tenants repeated their arguments that no rental arrears exist.

### Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case, I accept the evidence of both parties and find on a balance of probabilities that the landlord has failed to provide sufficient evidence of rental arrears as detailed by the 10 Day Notice dated June 1, 2019. The landlord was unable to provide sufficient details of the unpaid rent as shown by the 10 Day Notice. As such, the tenant's application to cancel the 10 Day Notice is granted. The 10 Day Notice dated June 1, 2019 is set aside and the tenancy continues.

### Conclusion

The tenant's application is granted.

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: July 18, 2019

---

Residential Tenancy Branch