



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SKIEPEA REAL ESTATE INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, FF, OLC, RP, MNDC

### 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;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant attended the hearing via conference call and provided undisputed testimony. The landlord did not attend or submit any documentary evidence. The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on June 21, 2019. The tenant also stated that the amendment to the application to include a monetary claim was served to the landlord via Canada Post Registered Mail on July 12, 2019. The tenant has provided in his direct testimony the Canada Post Customer Receipt Tracking Number (noted on the cover of this decision).

I accept the undisputed testimony of the tenant and find that the landlord has been deemed served with the notice of hearing package, the submitted documentary evidence and the amendment to the application for dispute as per section 90 of the Act.

### Preliminary Issue(s)

At the outset, the tenant's application was clarified. The tenant has requested an order cancelling the 10 Day Notice for Unpaid Rent, a monetary order for compensation for \$11,186.82, an order for the landlord to comply, an order for the landlord to make repairs and recovery of the filing fee. Extensive discussions were held in which the tenant clarified that the monetary request, request for repairs and request for the landlord to comply were unrelated to the 10 Day Notice. As such, pursuant to Residential Tenancy Branch Rule 2.3, I order that these unrelated portions be dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

During the course of the hearing the tenant's monetary claim was discussed and it was explained to the tenant that Section 72 of the Act addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. These issues was explained at length with the tenant as the tenant's monetary claim is for recovery of mailing, copying and gathering of evidence in retaliation to the landlord's issuance of the 10 Day Notice dated June 9, 2019. I note for the record that if this is the case, the landlord may be liable for compensation for the tenant's loss of quiet enjoyment as a result of the tenant having to respond to multiple meritless issues caused by the landlord.

#### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 10 Day Notice?  
Is the tenant entitled to recovery of the filing fee?

#### 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 tenant provided undisputed testimony that the landlord served the tenant with a 10 Day Notice for Unpaid Rent dated June 9, 2019 posted to the rental unit door on June 9, 2019. The 10 Day Notice states that the tenant failed to pay rent of \$100.00 that was due on May 28, 2019. The 10 Day Notice provides for an effective end of tenancy date of June 19, 2019.

The tenant disputes the 10 Day Notice dated June 9, 2019. The tenant clarified that the outstanding \$100.00 was a credit as a result of being awarded \$100.00 for recovery of his filing fee from a previous decision.

### 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 tenant's undisputed evidence and find that the 10 Day Notice dated June 9, 2019 is set aside and cancelled. The landlord did not attend or provide any submissions or evidence on the 10 Day Notice. The tenancy shall continue.

The tenant having been successful is also entitled to recovery of the \$100.00 filing fee. I order that the tenant may withhold one-time \$100.00 from the next monthly rent upon receipt of this decision.

### 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: August 02, 2019

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Residential Tenancy Branch