



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GATEWAY PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNE, FFT

### Introduction

This hearing was convened as the result of the tenants' application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenants applied for an order cancelling the landlord's 1 Month Notice to End Tenancy for End of Employment and for recovery of the filing fee paid for this application.

The tenants and the landlord attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

### Issue(s) to be Decided

- Should the landlord's Notice be cancelled?
- Is the tenant entitled to the recovery of the filing fee under the Act?

### Background and Evidence

The tenants submitted a copy of a Notice to end the tenancy served by the landlord; however, that Notice was a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice").

The Notice was dated July 2, 2019, and listed unpaid rent as of July 1, 2019, in the amount of \$550.00. The tenants said they recalled receiving it on July 2, 2019.

The tenants also submitted that they had paid the rent since then and are up-to-date on the rent.

In response to my inquiry, the tenants said they filed an application for dispute resolution on June 26, 2019, and confirmed that they had not received a Notice by the landlord on any form; however, they said they were told about a Notice or were given other documents by the landlord which indicated they were going to receive a Notice.

The tenants later filed a copy of the Notice, after filing their application.

In response, the landlord said the tenants were served the 10 Day Notice on July 2, 2019, came in a few days later and paid the rent. The landlord also said they had paid rent to date.

The landlord confirmed that they did not wish to pursue the Notice, as the tenants paid rent.

### Analysis

As the tenants filed an application in dispute of a One Month Notice, I find it necessary on my own initiative to amend their application to include a request to cancel the 10 Day Notice, as the evidence and testimony clearly showed the issue at dispute was the 10 Day Notice.

Section 46(4) of the Act states that within 5 days after receiving a 10 Day Notice the tenant may pay the overdue amount in which case the 10 Day Notice is of no effect. In the matter before me, I accept the testimony of both parties that the tenants paid the unpaid portion of rent within 5 days of receiving the 10 Day Notice. Therefore, I find the 10 Day Notice dated July 2, 2019, is of no force or effect.

As to the tenants' request for recovery of their filing fee, the evidence shows that when they made their application, they had not yet received any Notices to end the tenancy from the landlord. As their application was premature when it was made, I decline to award them recovery of their filing fee.

### Conclusion

The 10 Day Notice dated July 2, 2019, issued by the landlord is cancelled and of no force or effect.

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 15, 2019

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Residential Tenancy Branch