



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CHARTWELL CONSTRUCTION  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FFL OPRM-DR  
AS CNR LRE OLC PSF

### Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning applications made by the landlord and by the tenant. The landlord has applied for an Order of Possession and monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of the application. The tenant has applied for an order cancelling a notice to end the tenancy for unpaid rent; an order allowing the tenant to assign or sublet; an order suspending or setting conditions on the landlord's right to enter the rental unit; an order that the landlord comply with the *Act* or tenancy agreement; and for an order that the landlord provide services or facilities agreed upon but not provided.

The landlord was represented at the hearing by an agent who gave affirmed testimony, and was accompanied by a person identifying herself as the office manager, who did not testify or take part in the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call. The landlord's agent testified that the tenant was served with the Hearing Package by registered mail on July 19/19 and has provided a copy of a Canada Post cash register receipt and Registered Domestic Customer Receipt date stamped by Canada Post, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Since the tenant has not joined the call, I dismiss the tenant's application in its entirety without leave to reapply.

Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established that the notice to end the tenancy was given in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on June 1, 2018 and the tenant still resides in the rental unit. Rent in the amount of \$2,142.00 per month was originally payable under the tenancy agreement, a copy of which has been provided for this hearing, due in advance on the last day of each month for the following month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$1,071.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment in an apartment complex.

The landlord's agent further testified that rent was increased to \$2,195.00 per month effective June 1, 2019, and a copy of the Notice of Rent Increase has been provided for this hearing. It is dated February 26, 2019 and states that rent was established on no specific date in June, 2018; the day of the month has been left blank. Additionally, it states that the new rental increase of 2.45% or \$53.00 is payable starting June, 2019, but again the day of the month has been left blank. The landlord's agent testified that since rent is payable on the last day of the month, the landlord's head office advised to leave those dates blank, and that the increase then becomes payable on the last day of May, 2019 since rent is payable on the last day of each month for the following month.

The tenant failed to pay rent when it was due in July, 2019, and the landlord's agent personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and a copy has been provided for this hearing. It is dated July 1, 2019 and contains an effective date of vacancy of July 12, 2019 for unpaid rent in the amount of \$2,195.00 that was due on June 30, 2019. Both pages of the 2-page form have been provided. Arrears have continued to accumulate, and the landlord's agent testified that no rent has been paid for July, August or September, 2019, and the tenant is currently in arrears the sum of \$6,585.00.

The landlord seeks an Order of Possession, a monetary order for the unpaid rent and recovery of the \$100.00 filing fee.

### Analysis

Once served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), the tenant may pay the rent or dispute the Notice within 5 days of service. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy. I have reviewed the Notice, and I find that it is in the approved form and contains information required by the *Act*. The tenant did not pay the rent but disputed the Notice. However, the tenant did not attend the hearing, and given that I have dismissed the tenant's application, I am satisfied that the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

With respect to the landlord's monetary claim, I have reviewed the Notice of Rent Increase and I find that it is in the approved form but is confusing as to the effective date. If rent is payable on the last day of each month for the following month, the effective date in June, 2019 could not be earlier than June 30, 2019. Since the day in the month the increase would be effective is missing, the increase is contrary to the *Residential Tenancy Act* and the regulations. Therefore, I find that the tenant is indebted to the landlord the original amount payable under the tenancy agreement, being \$2,142.00 per month for the months of July, August and September, 2019, or \$6,426.00.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$6,526.00.

This order is final and binding and may be enforced.

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: September 05, 2019

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Residential Tenancy Branch