



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

**CNR FFT**  
**FFL MNDCL-S OPU**

### Introduction

This hearing dealt with applications from both the landlord and the tenant pursuant to the *Residential Tenancy Act* (“Act”).

The tenant applied for:

- An order to cancel a 10 Day Notice for Unpaid Rent or Utilities pursuant to section 46; and
- Authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord applied for:

- Authorization to recover the filing fee for this application from the tenant pursuant to section 72;
- A monetary order for damages or compensation and authorization to retain a security deposit pursuant to sections 38 and 67; and
- An order of possession for unpaid utilities pursuant to sections 46 and 55.

Both landlords attended the hearing as did the tenant, LB. Neither party had issues with service of documents.

### Settlement Reached

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, with the exception of the landlord's application to recover the filing fee for his application. The parties agreed that I would make a final, binding and enforceable decision regarding that issue.

1. During the hearing, the tenant paid the outstanding hydro utility bill to the landlord in the amount of \$592.43 by e-transfer of funds. During the hearing, the landlord acknowledged receipt of those funds.
2. The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on July 11, 2019 is cancelled and of no further force or effect.
3. The rights and obligations of the parties under the *Act* continue until the tenancy ends in accordance with the *Act*.

Both parties testified that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute with the exception of the landlord's filing fee.

#### Background and Evidence

The parties filed cross applications regarding outstanding an outstanding hydro/utility bill. The landlord had given the tenant a written demand to pay the utilities on May 21, 2019 for \$977.64 in outstanding utilities. On July 11, 2019, the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by registered mail. It was received by the tenant on July 15<sup>th</sup>, according to the registered mail confirmation of receipt.

The tenant filed an Application for Dispute Resolution on July 16, 2019 to dispute the Day Notice and paid a filing fee. The landlord filed an Application for Dispute Resolution on August 15, 2019 seeking an Order of Possession for unpaid utilities and monetary compensation. The landlord likewise paid a filing fee.

The landlord submits that it took time and effort to prepare for the dispute resolution and that they felt that if the tenant had simply paid the amount agreed to in settlement then the hearing could have been avoided. The tenant submits that there had been a change in the frequency of the demand for payments of utilities causing him confusion as to how much is owed.

### Analysis

Section 67 of the *Act* allows an arbitrator to determine if a party is to pay the other party compensation for their not complying with the *Act*. In this case, I have made no findings regarding whether either party is in violation of the legislation.

Both the tenant and the landlord filed Applications for Dispute Resolution and paid the filing fees. The tenant was obligated to do so as the consequence for not doing so would be an eviction. Conversely, the landlord could face a shortfall to his rental income if the utility bills for the rental unit remained unpaid.

Both parties paid their filing fees to have the dispute come before me to have their dispute settled. Although the tenant did not pursue his application to recover his filing fee, the landlord wants the tenant to pay his. I find that both parties had legitimate reasons to file their applications. Neither party has been found to be in violation of the *Act*. As such, I find each party should be responsible for the filing fees they paid to pursue their claims. I decline to award either party to pay the fee paid pursuant to section 59(2)(c) of the *Act*.

### Conclusion

The Notice to End Tenancy is cancelled and of no further force or effect. The tenancy shall continue with the rights and obligation remaining unchanged until ended in accordance with the *Act*.

**This decision is final and binding on the parties.**

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 17, 2019

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Residential Tenancy Branch