



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

FFL MNDCL-S MNRL-S OPR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- an Order of Possession for non-payment of rent pursuant to section 55;
- a monetary order for unpaid rent in the amount of \$3160 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:10 am in order to enable the tenant to call into this teleconference hearing scheduled for 11: 30 am. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was personally served the notice of dispute resolution package on July 27, 2019. I find that the tenant was deemed served with this package on July 27, 2019, in accordance with sections 88 and 89 of the Act.

**Preliminary Issue – Name of Tenant**

On the Application for Dispute Resolution the landlord wrote the tenant's name as "DD" (with each "D" being the same name). The landlord also issued a 10 Day Notice to End Tenancy (which forms the basis for the landlord's application for an order of possession) listing the tenant as "DD".

At the hearing, the landlord advised me that he did not know the tenant's full name at the time of filing the application or serving the 10 Day Notice to End Tenancy (there is no written tenancy agreement). He testified that he subsequently learned that a second name of the tenant was "H". He testified that he was unsure if "H" was the tenant's first name or last name, and that he always called the tenant "D".

Based on the information before me, I am unable to determine the correct name of the tenant (be it "DH", "HD", or some other name). As such, I cannot order that the landlord's application be amended to correct the name of the tenant, as I cannot be certain that whatever name I amend the tenant's to be would be accurate.

For the same reasons, I unable to order that the 10 Day Notice to End Tenancy be amended to correct the tenant's name. As such, I find that the 10 Day Notice to End Tenancy is invalid, and of no force and effect. I dismiss the landlord's application for an order of possession without leave to reapply.

If the landlord wishes to obtain an order of possession for non-payment of rent, it must be applied for pursuant to a new 10 Day Notice to End Tenancy with the tenant's correct name.

The validity of the 10 Day Notice to End Tenancy does not impact the landlord's monetary claim against the tenant. However, as the application misidentified the tenant, and I do not know the correct name of the tenant, any monetary award I would make would be unenforceable. I therefore dismiss the landlord's application for a monetary order with leave to reapply.

As I have dismissed both parts of the landlord's application, I decline to order that the tenant repay the landlord his filing fee.

I make no finding of fact as to the merits of either of the tenant's applications.

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 24, 2019

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Residential Tenancy Branch