



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROCKWELL DEVELOPMENTS  
INC and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, OPR, MNR, MNDR, RR, FF

### Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent;
2. For a monetary order for money owed or loss;
3. To have repairs to the rental unit or premise; deposit; and
4. To recover the cost of filing the application.

### Landlord's application

This matter was set for hearing by telephone conference call at 11:00 A.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the tenant. Therefore, as the landlord did not attend the hearing by 11:30 A.M, and the tenant appeared and was ready to proceed, I dismiss the landlord's claim without leave to reapply.

### Tenant's application

The tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution, Notice of Hearing and amendment were served on the landlord in person on September 6, 2019, at the office. I find that the landlord has been duly served in accordance with the Act.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the Notice to End Tenancy and the tenant's application to recover the filing fee at these proceedings. The balance of the tenant's application is dismissed, with leave to re-apply.

### Issue(s) to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities be cancelled?

### Background and Evidence

The tenant testified that they were served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The tenant stated that they gave the landlord all the receipts showing rent was paid, except for the one they could not find. The tenant denies they owe any rent to the landlord.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I accept the tenants undisputed evidence that all rent was paid. Therefore, I grant the tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on August 23, 2019. The tenancy will continue until legally ended in accordance with the Act.

As the tenant was successful with their application, I find the tenant is entitled to recover the cost of the filing fee. I authorize the tenant a onetime rent reduction in the amount of \$100.00, to be deducted from November 2019, or a future rent payable in full satisfaction of this award.

### Conclusion

The landlord's application is dismissed without leave to reapply. The tenant's application to cancel the notice to end tenancy is granted. The tenancy will continue until legally ended in accordance with the Act. The tenant is authorized to deduct the cost of the filing fee from a further rent payable to the landlord.

The balance of the tenant's application is dismissed with leave to reapply.

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: October 25, 2019

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Residential Tenancy Branch