



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, OLC, LRE, FF

### Introduction

On August 15, 2019, the Tenants submitted an Application for Dispute Resolution under the Residential Tenancy Act (“the Act”) to cancel a Two Month Notice to End Tenancy for Landlord’s Use of Property and for the Landlord to comply with the Act, Regulation or tenancy agreement. The Tenants also requested to suspend or set conditions on the Landlord’s right to enter the rental unit. On September 5, 2019 the Tenants amended the Application to include the dispute of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The matter was scheduled as a teleconference hearing. The Tenants attended the hearing; however, the Landlords did not. The Tenants provided affirmed testimony that they served the Landlords with the Notice of Dispute Resolution Proceeding by registered mail sent on August 29, 2019. The Tenants testified that they served the Notice of amended Application to include the dispute of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by registered mail sent on September 5, 2019. The Tenants provided the registered mail tracking information for the registered mail.

I note that the Landlords provided documentary evidence to the Residential Tenancy Branch prior to the hearing; but failed to attend the hearing to enforce the notices to end tenancy and respond to the Tenants’ claims. I find that the Notice of Dispute Resolution Proceeding and Notice of amendment were served to the Landlords in accordance with sections 89 and 90 of the Act.

The Tenants were asked if they had any questions. The Tenants provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Should the notices to end tenancy be set aside?
- Should the Landlords right to enter the rental unit be conditional or restricted?

### Background

The Tenants testified that the tenancy began in November 2016 on a month to month basis. Rent in the amount of \$1,200.00 is to be paid by the first day of each month.

The Tenant is disputing a notice to end tenancy. The Tenant submitted that the Landlord served them with a document titled "EVICTON NOTICE" dated August 4, 2019.

The document indicates that it serves as written notice to end the month to month tenancy at the dispute address due to clean up and selling. The letter indicates the last day of the tenancy will be September 30, 2019.

The Tenants are also seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities that they received from the Landlord dated September 3, 2019.

The Tenants testified that after they served the Landlord with the Notice of Dispute Resolution Proceeding documents, the Landlord came onto the property on August 29, 2019 and cut a lock and entered a shed that is for the exclusive use of the Tenants.

### Analysis

Section 47 of the *Act* states that a notice to end tenancy must comply with section 52 of the *Act* [*form and content of notice to end tenancy*].

Section 52 of the *Act* states that in order to be effective, a notice to end a tenancy must be in writing and must:

- (a) *be signed and dated by the landlord or tenant giving the notice,*
- (b) *give the address of the rental unit,*

- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy, and*
- (e) when given by a landlord, be in the approved form.*

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

The Landlord did not issue the Tenant with a notice to end tenancy in the proper form as required under section 52 of the Act. The document issued by the Landlord dated August 4, 2019 is of no force or effect and is set aside.

The Landlord failed to attend the hearing to pursue enforcement of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 3, 2019. The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities is set aside.

The Tenant's application to cancel the notices to end the tenancy received from the Landlord is successful.

The tenancy will continue until ended in accordance with the Act.

I order the Landlord to comply with section 29 of the Act which restricts the Landlords right to enter a rental unit that is subject to a tenancy agreement.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlords to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution. I authorize the Tenants to withhold the amount of \$100.00 from one (1) future rent payment.

### Conclusion

The Landlords did not issue a notice to end tenancy in the proper form as required under section 52 of the Act. The document dated August 4, 2019, issued by the Landlords is of no force or effect.

The Landlord failed to attend the hearing to pursue enforcement of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 3, 2019. The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities is set aside.

The tenancy continues until ended in accordance with the Act.

I order the Landlord to comply with section 29 of the Act which restricts the Landlords right to enter a rental unit that is subject to a tenancy agreement.

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 21, 2019

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Residential Tenancy Branch