



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WELBEC PROPERTIES INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, AS

### Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65.

The tenant attended the hearing via conference call and provided affirmed testimony. The landlord did not attend or submit any documentary evidence. The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on July 8, 2020.

I accept the undisputed affirmed testimony of the tenant and find that the landlord was properly served as per sections 88 and 89 of the Act. Although the landlord did not attend and participate in the hearing, the landlord is deemed served as per section 90 of the Act.

### Preliminary Issue(s)

At the outset, the tenant's request authorizing her to assign or sublet the rental unit was clarified. The tenant provided written details which states,

*As per the tenancy agreement subject 9. Number 1, When I asked in Jan 2020 to get or look for a roommate I was told it was not allowed and that the rent would increase to \$1,400 per month.*

The tenant's request was clarified as it appears that the tenant seeks a roommate and not to assign or sublet the rental. The tenant stated that she did not want to assign or sublet the rental unit. On this basis, the tenant's request was cancelled as an error made in selection by the tenant. No further action is required.

### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 10 Day Notice?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on July 30, 2019 on a fixed term tenancy ending on July 30, 2020 as per the submitted copy of the signed tenancy agreement dated July 30, 2019. The monthly rent was \$1,200.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$600.00 and a pet damage deposit of \$600.00 were paid on July 30, 2019. A condition inspection report for the move-in was completed by both parties on July 30, 2019.

The tenant stated that she was served with a 10 Day Notice to End Tenancy for Unpaid Rent dated June 29, 2020 on July 3, 2020 in her mailbox. The 10 Day Notice states that the tenant failed to pay rent of \$3,000.00 that was due on March 1, 2020.

The tenant argued that as of February 29, 2020 she was in arrears for \$200.00 and that monthly rent is \$1,200.00. The tenant stated that it was impossible for her to be in arrears for \$3,000.00.

### Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case, I accept the undisputed affirmed testimony of the tenant and find that the tenant was served with the 10 Day Notice dated June 29, 2020 via her mailbox on July 3, 2020. The tenant is deemed served on July 3, 2020. Although the effective end of tenancy date is July 9, 2020 this is corrected to July 13, 2020.

The tenant has provided undisputed affirmed testimony that as of February 29, 2020 she was only in rental arrears for \$200.00 and that monthly rent is \$1,200.00 for March 1, 2020. I accept the undisputed affirmed evidence of the tenant and find that the landlord has failed to provide sufficient evidence of rental arrears of \$3,000.00 as per the 10 Day Notice dated June 29, 2020. On this basis, the 10 Day Notice dated June 29, 2020 is set aside and cancelled. The tenancy shall continue.

Conclusion

The tenant's application is granted.

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: August 04, 2020

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Residential Tenancy Branch