



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR

### Introduction

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

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

### Issues(s) to be Decided

Should the 10 Day Notice to End tenancy be cancelled? If not, should the landlord be granted an order of possession?

### Background and Evidence

Both parties agree to the following. The tenancy began on October 1, 2017 with the rent payable of \$1800.00 due on the first of each month. The tenant testified that they have been waiting for some financial relief from the provincial and federal government and intend to pay all outstanding rent.

The landlord testified that the tenants did not pay the rent for July 2020 and issued a notice on July 21, 2020 for unpaid rent. The landlord testified that the tenants also failed to pay the rent for August. The landlord testified that she is empathetic towards the tenant's situation and is very understanding, but asks that the tenants have better communication with her and to keep her advised of the situation.

## Analysis

Both parties advised that they were unsure as to what the current situation of unpaid rent means for landlords and tenants. I spent the majority of the hearing explaining the new COVID – 19 regulations to the parties to assist them, specifically as follows;

### ***PART 2 – RESIDENTIAL TENANCY ACT***

#### ***Division 1 – Landlord’s Notice: Non-Payment of Rent***

##### ***Non-payment of affected rent***

*3 (1) As an exception to sections 44 (1) (a) (ii) and 46 [landlord’s notice: non-payment of rent] of the Residential Tenancy Act and any other provision of the Residential Tenancy Act and the Residential Tenancy Regulation, a landlord must not give a tenant notice to end a tenancy under section 46 (1) of the Residential Tenancy Act in respect of affected rent that is unpaid and instead this Division applies.*

*(2) The landlord must give the tenant a repayment plan if*

*(a) the tenant has overdue affected rent, and*

*(b) subject to subsection (3), the landlord and tenant did not enter into a prior agreement.*

*(3) If the landlord and tenant entered into a prior agreement and the prior agreement does not address the full amount of overdue affected rent, the landlord must give the tenant a repayment plan in respect of the amount of overdue affected rent that is not addressed in the prior agreement.*

*(4) The landlord may cancel a prior agreement by giving the tenant a repayment plan for the full amount of the overdue affected rent.*

*(5) The tenant may cancel a prior agreement by giving the landlord a repayment plan for the full amount of the overdue affected rent whether or not the landlord has given the tenant a repayment plan under subsection (3).*

The landlord did not have a repayment plan agreement in place, nor has she issued one at the time of this hearing. Based on the above, I hereby cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, it is of no effect or force. I explained the process to both parties of the repayment plan including their rights, responsibilities and obligations. Both parties indicated they understood the process going forward.

## Conclusion

The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities is cancelled, it is of no effect or force. The tenancy continues.

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 28, 2020

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Residential Tenancy Branch