



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Parallel 50 Realty and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the 10 Day Notice for Unpaid Rent, pursuant to section 46.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agent 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's agent and I were the only ones who had called into this teleconference.

### Preliminary Issue- Service

The landlord's agent testified that the tenants did not serve her with their application for dispute resolution and the tenant only verbally informed the landlord's agent of the hearing a few days ago.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:*

*(a) by leaving a copy with the person;*

- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

I find that the tenants did not serve the landlord in a manner required by section 89(1) of the *Act*. I therefore find that the tenant's application to cancel the 10 Day Notice for Unpaid Rent is dismissed with leave to reapply.

The landlord's agent testified that the tenants did not serve the landlord with any evidence.

Section 3.14 of the *Residential Tenancy Branch Rules of Procedure* (the "Rules") states that evidence not submitted at the time of Application for Dispute Resolution that are intended to be relied on at the hearing must be received by the respondent not less than 14 days before the hearing. I find that since the landlord did not receive the tenants' evidence package, all evidence submitted by the tenants are excluded from consideration.

The landlord's agent testified that the tenants were not served with a 10 Day Notice to End Tenancy for Unpaid Rent but were served with a One Month Notice to End Tenancy for Cause.

Section 55 of the *Act* states that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if:

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and*
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

As no 10 Day Notice to End Tenancy was entered into evidence, I cannot determine if it complies with section 52 of the *Act*. I therefore cannot grant the landlord an Order of Possession. I also note that a One Month Notice to End Tenancy was also not admitted for consideration, and I cannot determine if it meets the section 52 requirements.

### Conclusion

The tenants' application to cancel the 10 Day Notice 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: December 11, 2020

---

Residential Tenancy Branch