



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, RP

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on February 16, 2021 (the “Application”). The Tenant applied to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 11, 2021 (the “Notice”). The Tenant also sought repairs.

The Tenant and Advocate appeared at the hearing. Nobody appeared at the hearing for the Landlord. I explained the hearing process to the Tenant and Advocate who did not have questions when asked. I told the Tenant and Advocate they were not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Tenant and Advocate provided affirmed testimony.

The Tenant submitted the Notice prior to the hearing. The Landlord did not submit evidence. I addressed service of the hearing package. The Tenant testified that the hearing package was not served on the Landlord. The Advocate testified that they did not serve the hearing package on the Landlord.

The hearing package had to be served on the Landlord pursuant to section 59(3) of the *Residential Tenancy Act* (the “Act”) and rule 3.1 of the Rules. Given the hearing package was not served on the Landlord, the Application is dismissed with leave to re-apply. This decision does not extend any time limits set out in the Act.

I acknowledge section 55 of the Act states:

55 (1) 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.

I decline to issue the Landlord an Order of Possession based on the Notice given the Landlord was not at the hearing to confirm they are seeking an Order of Possession based on the Notice or are seeking to end this tenancy.

I also note that the Advocate advised during the hearing that the Tenant had paid the outstanding rent within five days of receiving the Notice.

### Conclusion

The Application is dismissed with leave to re-apply. This decision does not extend any time limits set out in the *Act*.

I decline to issue the Landlord an Order of Possession based on the Notice given the Landlord was not at the hearing to confirm they are seeking an Order of Possession based on the Notice or are seeking to end this tenancy.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: May 21, 2021

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Residential Tenancy Branch