



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TOP VISION REALTY INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, OPR, MNR, FF

### Introduction

This was a cross-application hearing for Dispute Resolution under the *Residential Tenancy Act* (“the Act”).

On May 7, 2021, the Tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

On May 12, 2021, the Landlord applied for an order of possession for the rental unit and a monetary order for unpaid rent based on issuance of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

This matter was set for hearing by telephone conference call at 9:30 am on this date. The Landlord's agent attended the hearing; however, the Tenant did not. The line remained open while the phone system was monitored for ten minutes and the Tenant did not call into the hearing during this time. Therefore, as the Applicant did not attend the hearing by 9:40 am to pursue his application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, I dismiss the claim without leave to reapply.

The Landlord testified that the Tenants were served with the Notice of Dispute Resolution proceeding using registered mail sent to the rental unit on May 27, 2021. The Landlord provided the registered mail receipt as proof of service.

I find that the Tenants were served with notice to attend the hearing with respect to the Landlord's application in accordance with sections 89 and 90 of the Act.

The Landlord testified that the Tenants moved out of the rental unit on July 19, 2021. The Landlord is not seeking an order of possession for the rental unit but is proceeding with his claim to recover unpaid rent. The hearing proceeded on the Landlord's application.

At the start of the hearing, I introduced myself. The Landlord was provided with an opportunity to ask questions about the hearing process. The Landlord provided affirmed oral testimony and made submissions during the hearing.

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

- Is the Landlord entitled to a monetary order due to non-payment of rent owing under the tenancy agreement?

#### Background and Evidence

The Landlord testified that the tenancy began on November 15, 2020 as a one-year fixed term tenancy. Rent in the amount of \$3,500.00 is due to be paid to the Landlord by the first day of each month. The Tenants paid the Landlord a security deposit of \$1,750.00. The Landlord provided a copy of the tenancy agreement.

#### 10 Day Notice

The Landlord testified that the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 3, 2021 ("the 10 Day Notice"). The 10 Day Notice indicates the Tenants have failed to pay \$3,500.00 that was due on May 1, 2021. The Landlord provided a copy of the 10 Day Notice.

The 10 Day Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenants had five days to dispute the Notice. The Tenants received the 10 Day Notice on May 3, 2021 and disputed the 10 Day Notice on May 7, 2021 within the required time period.

The Tenants failed to attend the hearing to pursue their application to cancel the 10 Day Notice.

The Landlord testified that the Tenants did not pay the May 2021 rent owing under the tenancy agreement within five days of receiving of the 10 Day Notice.

The Landlord testified that the Tenants did not pay any amount of rent due under the tenancy agreement for May 2021, and in addition they did not pay the rent for June 2021, or for the 19 days they occupied the rental unit for July 2021.

The Landlord requested to amend his application to include the unpaid rent for June 2021 and July 2021. The Landlord also requested to keep the security deposit of \$1750.00 towards the unpaid rent.

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenants failed to pay the rent owing under the tenancy agreement for May 2021, June 2021, and July 2021.

I find that it is reasonable to permit the Landlord to amend his application to include unpaid rent for June 2021 and July 2021 and to also permit the Landlord to retain the security deposit of \$1,750.00 towards the unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$9,245.19 comprised of \$9,145.16 in unpaid rent for the above-mentioned months and the \$100.00 fee paid by the Landlord for this hearing. After setting off the security deposit against the award of \$9,245.16 the Tenants owe the Landlord the balance of \$7,495.16.

I grant the Landlord monetary order in the amount of \$7,495.16. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

### Conclusion

The Tenants failed to attend the hearing to pursue their application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Tenants' application is dismissed.

The hearing proceeded based on the Landlord's application for a monetary order for unpaid rent.

I find that the Tenants failed to pay the rent owing under the tenancy agreement for May 2021, June 2021, and July 2021. The Landlord is authorized to keep the security deposit of \$1,750.00 and I grant the Landlord a monetary order for the balance of \$7,495.16.

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: September 16, 2021

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Residential Tenancy Branch