



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, FF

### Introduction

This hearing dealt with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for:

- an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlord; and
- to recover the cost of the filing fee.

The tenant's advocate (advocate) and the landlords attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

The parties were informed at the start of the hearing that recording of the dispute resolution hearing is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. All parties provided affirmed testimony they were not recording the hearing.

Thereafter the parties provided testimony concerning the issues raised. I have reviewed all oral and written evidence before me that met the requirements of the Rules.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters-

The advocate submitted at the beginning of the hearing that the tenant had vacated the rental unit, on or about November 30, 2021. The landlords confirmed that the tenant had vacated and that they did not require an order of possession of the rental unit. As a result of the above, I find the tenant's application seeking to cancel the Notice in order to continue the tenancy is moot as the tenancy ended after the tenant filed to dispute the Notice.

Given the above, I dismiss the tenant's application, without leave to reapply, including the request to recover the filing fee, as I did not hear the merits of the application.

The hearing proceeded to consider whether the landlords are entitled to a monetary order for unpaid monthly rent, pursuant to section 55 (1.1) of the Act.

Issue(s) to be Decided

Are the landlords entitled to a monetary order consisting of unpaid monthly rent?

Background and Evidence

The parties submitted evidence of a prior Decision involving the same parties on the tenant's application seeking cancellation of a One Month Notice to End Tenancy for Cause. That Notice was cancelled in a Decision dated August 16, 2021. In that Decision, the arbitrator found that the tenant was required to pay utilities. However, ultimately, the arbitrator cancelled the One Month Notice.

The landlords then served the tenant with the Notice, which is the subject of this dispute, on August 19, 2021. In her application, the tenant confirmed receiving the Notice on August 19, 2021. Filed in evidence was a copy of the Notice.

The landlord stated that the tenant failed to pay the utilities and monthly rent, which caused the Notice to be issued to the tenant. The Notice listed that the tenant failed to pay rent in the amount of \$3,600 that was due on August 29, 2021. The box denoting unpaid utilities was unchecked, and no amount for unpaid utilities was listed on the Notice. Attached to the Notice was a letter from the landlords to the tenant, demanding unpaid utility charges, in the amount of \$2601. The letter said that a breakdown of utilities was attached, however, the breakdown was not attached in the evidence.

### Analysis

I have reviewed the Notice and find it does not comply with section 52 [*form and content of notice to end tenancy*].

While the form is on the standard RTB form, the landlords listed unpaid monthly rent which was not yet due. The Notice was dated and issued on August 19, 2021, and the landlords listed the date rent was due as August 29, 2021. I therefore find this Notice is not valid.

Additionally, I do not consider the matter of unpaid utility charges as the landlords failed to list that amount on the Notice.

For these reasons, I decline to grant the landlords a monetary order under Section 55(1.1) of the Act.

The landlords are at liberty to make their own application for dispute resolution seeking monetary compensation from the tenant.

### Conclusion

The tenant's application seeking cancellation of the Notice and recovery of the filing fee is dismissed, without leave to reapply, as the tenancy ended prior to the hearing.

The landlords were not issued a monetary order for unpaid monthly rent or unpaid utility charges as I find the Notice is not valid.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: December 24, 2021

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Residential Tenancy Branch