



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TRIBE MANAGEMENT INC. and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR

### Introduction

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

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

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The tenant stated that he is unsure of how or when he served the hearing package to the landlord. The landlord stated that a hearing package was received and forwarded to her from her office. The landlord is unable to provide any details on service. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties are deemed sufficiently served based upon the testimony of both parties.

The tenant stated that he is unsure of how or when he served the submitted documentary evidence to the landlord, but he must have either through email or the Residential Tenancy Branch application process. The landlord argued that no documentary evidence was served. The tenant was unable to provide any supporting evidence of service. Both parties were advised that the Residential Tenancy Branch application process does not provide for service of the hearing and/or documentary evidence package(s). Both parties were advised that a decision on the tenant's

evidence would be reserved if and when either party would reference the tenant's evidence during the hearing. No references were made by either party during the hearing. On this basis, the tenant's documentary evidence was excluded from consideration in this hearing for lack of service.

The landlord stated that the tenant was served with the submitted documentary evidence by posting it to the rental unit door on January 13, 2022. The tenant confirmed receipt of the package. Neither party raised any service issues. Despite the landlord submitted late evidence for the hearing, I find based upon the tenant's lack of submission on this issue that the tenant has been sufficiently served.

During the hearing the landlord withdrew the request to join an application for dispute to this hearing. The landlord stated that that form was submitted in error as no application was filed by the landlord.

#### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 10 Day Notice?

#### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed the landlord served the tenant with the 10 Day Notice dated November 3, 2021 by serving it to the tenant by posting it to the rental unit door. The 10 Day Notice sets out an effective end of tenancy date of November 13, 2021 and that the tenant failed to pay rent of \$1,320.044 that was due on November 1, 2021.

The landlord provided affirmed testimony that the tenant is in rental arrears of \$1,320.44 as per the 10 Day Notice dated November 3, 2021. The landlord stated that these arrears are made up of late rent fee(s) and unpaid rent. The landlord referenced the submitted copy of a tenant ledger which details the tenant's entire account since the tenancy began.

The tenant confirmed his agreement that he was in arrears and that the tenant ledger appears to be accurate. The tenant stated that he has no reason to doubt the landlord's evidence.

The tenant stated that he was a long time tenant with no rent payment issues previously and the reason he was in arrears were due to a series of unfortunate circumstances.

The landlord responded that the tenant has been in arrears for some time and that a payment plan was agreed upon previously but that the tenant failed to meet those obligations.

During the hearing the landlord noted that there was ongoing unpaid rent since the 10 Day Notice dated November 3, 2021 was served but failed provide any further details.

### Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case, both parties confirmed that the landlord served the tenant with the 10 Day Notice dated November 3, 2021 by posting it to the rental unit door.

Both parties provided direct affirmed testimony that the tenant was in rental arrears of \$1,320.44 based upon the 10 Day Notice dated November 3, 2021.

Based on these factors I find that the 10 Day Notice dated November 3, 2021 is valid and upheld. Both parties confirmed both the details and contents of the notice were accurate. The tenant's application to cancel the 10 Day Notice is dismissed without leave to reapply. The landlord is granted an order of possession to be effective 2 days after it is served upon the tenant.

I find that despite the landlord noting that there were ongoing unpaid rent issues, no details were presented during the hearing besides that of the \$1,320.44 noted on the 10 Day Notice dated November 3, 2021. On this basis, I can a monetary order for the landlord of \$1,320.44 for unpaid rent.

### Conclusion

The landlord is granted an order of possession.

The landlord is granted a monetary order for \$1,320.44.

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: January 19, 2022

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Residential Tenancy Branch