



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNR MNDCT DRI OLC RR FFT

### Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice), for a monetary claim of \$63,700.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for an order directing the landlord to comply with the Act, regulation or tenancy agreement, for a rent reduction, to dispute a rent increase, and to recover the cost of the filing fee.

The tenant, counsel for the tenant, SW (counsel) and the landlord attended the teleconference hearing. At the start of the hearing, I introduced myself and the participants and the participants were given an opportunity to ask questions. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony evidence and to make submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires. Only matters related to my findings below are described in this decision.

### Preliminary and Procedural Matters

Firstly, Rule 2.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated more than one matter of dispute on their application, the most urgent of which is the tenant's request to set aside a 10 Day Notice and is the reason why the tenant was granted an expedited hearing. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to cancel the 10 Day Notice and for the recovery of the cost of the filing fee at this proceeding. The balance

of the tenant's application which includes a monetary claim is dismissed, **with leave to re-apply**. The parties are reminded that the maximum monetary claim for claims unrelated to a 2 Month Notice/section 51(2) of the Act, is \$35,000.00.

The participants were informed at the start of the hearing that recording of the dispute resolution is prohibited under the RTB Rule 6.11. The participants were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the participants were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The participants did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition to the above, the tenant's counsel and the landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision would be emailed to them.

#### Issues to be Decided

- Should the 10 Day Notice be cancelled?
- If yes, is the tenant entitled to the recovery of the cost of the filing fee under the Act?

#### Background and Evidence

Counsel and the landlord confirmed that since this claim was filed on October 12, 2021, the tenant has since vacated the rental property on or about November 2021. As the tenancy has ended by way of the tenant vacating the rental property, I find this matter is now moot.

#### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

I dismiss the tenant's application to cancel the 10 Day Notice as the tenant has already vacated the rental unit on or about November 2021, since filing their application.

#### Conclusion

The application is dismissed without leave to reapply as it is now moot.

As indicated above, the monetary claim portion of the tenant's application that was severed in accordance with section 2.3 of the Rules of Procedure is dismissed with leave to reapply.

The filing fee is not granted as this application was now moot.

This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 22, 2022

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Residential Tenancy Branch