



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Core Holdings Corp  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **CNR-MT, FFT, MNDCT**

### **Introduction**

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities pursuant to sections 46 and 55;
- Leave to have the application heard after the time to dispute the notice to end tenancy has passed pursuant to section 66;
- Authorization to recover the filing fee from the other party pursuant to section 72; and
- A monetary order for damages or compensation pursuant section 67.

The tenant attended the hearing, and the landlord was represented at the hearing by building manager EO (“landlord”). The landlord acknowledged service of the tenant’s Notice of Dispute Resolution Proceedings package. The landlord did not upload any documentary evidence for this hearing, although the landlord stated evidence was uploaded to a different application for dispute resolution filed by the landlord.

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Rule 6.11 of the Residential Tenancy Branch Rules of Procedure (“Rules”). The parties were informed that if any recording was made without my authorization, the offending party would be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation and potential fine under the Act. Both parties confirmed that they were not recording the hearing.

### **Preliminary issue**

The landlord testified that subsequent to serving the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent/Utilities, he also served the tenant with a 1 Month Notice to End Tenancy for Cause. The landlord has filed an application for dispute resolution seeking an Order of Possession based on the 1 Month Notice to End Tenancy for

Cause and a hearing has been set for April 26, 2022. The file number for this application is recorded on the cover page of this decision. The landlord asked that I bring the landlord's application forward for hearing today. I denied the landlord's application for two reasons. First, doing so would deny the tenant her right to file and serve evidence to dispute the landlord's application within the time frames set out in Rule 3 of the Rules of Procedure; second, because hearing the landlord's application without providing the tenant with an opportunity to provide a full answer and defence would be contrary to the rules of natural justice.

#### Issue(s) to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent/Utilities be upheld or cancelled?

Can the tenant recover the filing fee?

Is the tenant entitled to a monetary order?

#### Background and Evidence

At the commencement of the hearing, the landlord testified that the 10 Day Notice to End Tenancy for Unpaid Rent/Utilities was served to the tenant by posting a copy to the tenant's door on December 13, 2021. The landlord testified that the tenant paid the amount of \$1,000.00 within five days of being served with the notice to end tenancy.

The tenant testified that the compensation she sought in her application for dispute resolution was only required if the landlord were to be successful in evicting her.

#### Analysis

Pursuant to section 46(4) of the Act, if a tenant pays overdue rent within five days after receiving a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities, the notice has no effect. The landlord acknowledges that the outstanding rent was paid within five days of serving the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent/Utilities. Consequently, the notice has no effect.

The tenant's advised that her application for a monetary order, seeking "*rent and deposit back and to move the tenant's things into storage and pay for storage*" could be dismissed if the tenancy wasn't ending. The tenancy will continue until it is ended in accordance with the Act. Accordingly, the tenant's application is dismissed with leave to reapply.

The decision to order payment of the filing fee is discretionary upon the arbitrator and in accordance with section 72 of the Act, the filing fee will not be recovered.

Conclusion

Pursuant to section 46(4), the landlord's 10 Day Notice to End Tenancy for Unpaid Rent/Utilities has no effect as rent was paid within five days of serving the tenant.

The tenant's application seeking a monetary order is dismissed with leave to reapply.

The tenant's filing fee will not be recovered.

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: March 01, 2022

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Residential Tenancy Branch