



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes      **CNR, MNDCT, FFT**

### Introduction

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

- cancellation of a 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 46 (the 10 Day Notice);
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:12 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The tenant should have been aware of the hearing date, time and call in instructions as this dispute was initiated by the tenant and the tenant was required to serve a copy of the notice of hearing on the landlord. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence.

### Issues

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an order of possession and a monetary order for unpaid rent?

Is the tenant entitled to monetary compensation and recovery of the filing fee.

### Background and Evidence

The tenancy began on April 1, 2014, and the current monthly rent is \$1512.00 payable on the 1<sup>st</sup> day of each month. The tenant paid a security deposit of \$600.00 at the start of the tenancy.

The landlord testified that on April 5, 2022 the tenant was served with the 10 day Notice by posting a copy to the door of the rental premises as the tenant had failed to pay the monthly rent due on April 1, 2022.

The landlord testified that the tenant did not pay the full amount of the arrears indicated on the 10 Day Notice within five days of being served and that the full amount is still outstanding.

The tenant's application to cancel the 10 Day Notice was filed on April 5, 2022 within the time period permitted under the Act.

### Analysis

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 46 of the Act requires that upon receipt of a 10 Day Notice, the tenant must, within five days, either pay the full amount of the arrears indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch.

Section 55(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the notice is upheld the landlord must be granted an order of possession if the notice complies with all the requirements of Section 52 of the *Act*. Further, as per section 55(1.1) if the application is in relation to a notice to end tenancy under section 46 [*landlord's notice: non-payment of rent*] an order requiring the payment of the unpaid rent must also be granted.

As the tenant failed to participate in this hearing, the tenant's application is dismissed in its entirety without leave to reapply.

I accept the landlord's undisputed testimony and find the tenant failed to pay the outstanding rent as per the 10 Day Notice within 5 days of the Notice being served and that the full amount is still outstanding.

I find that the 10 Day Notice issued by the landlord complies with the requirements of Section 52 of the Act. During the hearing, the landlord advised that the tenant vacated the rental unit at the end of April 2022; therefore, she does not require an order of possession.

The landlord is granted a monetary award for the unpaid rent amount of \$1512.00, as per the 10 Day Notice.

The landlord continues to hold a security deposit of \$600.00. Using the offsetting provisions of section 72 of the Act, the landlord may retain the security deposit in partial satisfaction of the monetary award.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$912.00.

### Conclusion

I grant the landlord a Monetary Order in the amount of \$912.00. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: July 28, 2022

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Residential Tenancy Branch