



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR-MT

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) filed by the Tenants under the *Residential Tenancy Act* (the Act) on December 16, 2022, seeking both:

- More time to make an application to cancel a Notice to End Tenancy; an
- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice).

The hearing was convened by telephone conference call at 11:00 A.M. on January 16, 2023, and was attended by the Landlord, who provided affirmed testimony. The Tenants did not attend. The Landlord was provided the opportunity to present their evidence orally and in written and documentary form, to call witnesses, and to make submissions at the hearing.

The Landlord was advised that pursuant to rule 6.10 of the Residential Tenancy branch Rules of Procedure (Rules of Procedure), interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The Landlord was asked to refrain from speaking over me and to hold their questions and responses until it was their opportunity to speak. The Landlord was also advised that personal recordings of the proceeding were prohibited under the Rules of Procedure and confirmed that they were not recording the proceedings.

The Notice of Dispute Resolution Proceeding (NODRP) states the date and time of the hearing, that the hearing will be conducted by telephone conference call, and provides the phone number and access code for the hearing. It also instructs participants that they are to call into the hearing themselves no more than five minutes before the start of the hearing. I confirmed that the details shown in the NODRP were correct. The Landlord stated that they received nothing in relation to this hearing from the Tenants, and only became aware of the hearing after receiving an auto-generated email from the

Residential Tenancy Branch (Branch) on Friday January 13, 2023, after which they called the Branch, were advised of the hearing, and provided with a courtesy copy of the NODRP. Although the line remained open for 11 minutes, neither the Tenants nor an agent acting on their behalf appeared to provide evidence or testimony for my consideration.

The ability to know the case against you and have an opportunity to respond is fundamental to the dispute resolution process. Branch records show that the Landlord called the Branch on Friday January 13, 2023, regarding two auto-generated reminder emails sent to the Landlord by the Branch that same day, and that the Branch provided the Landlord with a courtesy copy of the NODRP as a result. I therefore accept the Landlord's affirmed and undisputed testimony that they were not served with any documentation in relation to this hearing by the Tenants, including but not limited to the NODRP. As a result, I find that the NODRP was not served on the Landlord by the Tenant in accordance with section 59(3) of the Act or rule 3.1 of the Rules of Procedure. As a result, I find that it would be significantly prejudicial to the Landlord and a breach of the Act, the Rules of Procedure, and the principles of administrative justice and procedural fairness to proceed with the hearing of the Tenant's Application.

In any event, the Landlord stated that they have already withdrawn/cancelled the 10 Day Notice, as they reached a mutual agreement with the Tenant to continue the tenancy if the Tenant pays their future rent on time, plus an additional \$500.00 per month towards the current back-owed rent for November and December of 2022, and January of 2023. Based on lack of service of the NODRP by the Tenant on the Landlord, and the Landlord's affirmed and undisputed testimony that the 10 Day Notice has already been cancelled/withdrawn by them by way of a mutual agreement with the Tenant, I therefore dismiss the Tenants' Application without leave to reapply.

### Conclusion

The Tenants' Application is dismissed without leave to reapply. 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 16, 2023

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Residential Tenancy Branch