



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding Maxsave Real Estate Services  
Ltd. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR

### Introduction

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

- an order cancelling the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the “10-Day Notice”) pursuant to section 46 of the *Act*.

LS appeared as agent for the landlord. LS testified that the tenancy ended on January 16, 2023, when the tenant vacated the rental unit.

### Analysis

While the tenant did not appear at the hearing, I waited until 9:40 a.m. in order to enable the applicant tenant to connect with the teleconference which was scheduled for 9:30 a.m. LS was given full opportunity to be heard, to present testimony and to make submissions.

Rule of Procedure 7.3 discusses the consequences of a party not attending a hearing.

#### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The landlord testified that the tenancy ended on January 16, 2023. On that basis, I find that an order of possession which would typically be issued pursuant to section 55(b) of the Act is unnecessary as the landlord has possession of the rental unit.

Section 55(1.1) of the Act requires the Director to grant an order requiring the payment of the unpaid rent if the landlord's notice to end tenancy complies with section 52 and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The tenant applied to dispute a 10-Day Notice on December 7, 2022; however, a copy of the 10-Day Notice issued in December 2022 has not been included into evidence. On that basis, I am unable to determine if the 10-Day Notice that led to the tenant's application complies with section 52 of the Act. Therefore, I have not granted an order requiring payment of the unpaid rent.

### Conclusion

The tenant's application to dispute the landlord's 10-Day Notice 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: March 14, 2023

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Residential Tenancy Branch