



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

A matter regarding WENDEB PROPERTIES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, OLC, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order to cancel the 10 Day Notice to End Tenancy for Unpaid Rent dated January 4, 2023 ("10 Day Notice"); for an Order for the Landlord to Comply with the Act or tenancy agreement; and to recover her \$100.00 Application filing fee.

Counsel for the Landlord, J.C. ("Counsel"), appeared at the teleconference hearing and gave affirmed testimony; however, no one attended on behalf of the Tenant. Counsel advised me that the Tenant had contacted the Landlord to advise that she would not be attending the hearing. Further, Counsel advised that the Tenant vacated the residential property on May 4, 2023, without having provided sufficient notice.

Counsel said the Tenant has not paid any rent since November 2022, and therefore, that she owes the Landlord \$1,000.00 per month for December 2022 through May 2023. Counsel requested that the Landlord be awarded recovery of the unpaid rent for this period.

She also requested authorization to serve the Tenant via email, because the Tenant has not provided a forwarding address for service of documents.

### Preliminary and Procedural Matters

The Tenant provided her email address in the Application and Counsel provided hers in the hearing. Counsel also confirmed her understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Issue(s) to be Decided

- Should the 10 Day Notice be cancelled or confirmed?
- Is the Landlord entitled to an order of possession?
- Is the Tenant entitled to recover her \$100.00 Application filing fee?
- Should the Landlord be authorized to serve the Tenant by email?

Background and Evidence

Counsel confirmed that the tenancy began on September 1, 2010, with a monthly rent of \$1,000.00, due on the first day of each month. The tenancy agreement states that the Tenant paid the Landlord a security deposit of \$700.00, and no pet damage deposit. However, Counsel was unable to confirm the status of any security deposit for this lengthy tenancy. As such, I make no findings as to the status of the any security deposit for this tenancy.

**#1     MONETARY ORDER FOR UNPAID RENT → \$6,000.00**

The Landlord submitted a copy of the 10 Day Notice, which was signed and dated January 4, 2023, and which has the rental unit address It was served by attaching a copy to the rental unit door on January 4, 2023, with an effective vacancy date of January 14, 2023, which is automatically corrected by the Act to be January 17, 2023. The 10 Day Notice was served on the grounds that the Tenant failed to pay the Landlord \$2,050.00 when it was due on January, 2023.

Counsel directed my attention to the Landlord's submitted photograph of the 10 Day Notice posted to the rental unit door, with the 10 Day Notice and the unit number clearly in the photograph. This photograph is contained in an email to the Tenant dated January 4, 2023, containing the 10 Day Notice, and advising the Tenant that it was also posted on her unit door.

The 10 Day Notice was signed and dated January 4, 2023, it has the rental unit address, it was served via email and by attaching a copy to the rental unit door on January 4, 2023. The 10 Day Notice had an effective vacancy date of January 14, 2023, which is automatically corrected by the Act to be January 17, 2023. The 10 Day Notice was served on the grounds that the Tenant failed to pay the Landlord \$2,050.00 when it was due to the Landlord on January 1, 2023. Pursuant to section 55 (1.1) of the Act, the Landlord seeks a monetary award for the outstanding unpaid rent of \$6,000.00 for December 2022 through May 2023,

## **#2 REQUEST TO SERVE TENANT VIA EMAIL**

The Landlord said that the Tenant moved out without providing a forwarding address, and therefore, the Landlord does not know to where they can serve the Tenant with documents. The Landlord seeks an order authorizing the Landlord to serve the Tenant via email.

Counsel directed my attention to a document dated November 9, 2022, in which the Tenant authorizes the Landlord to send her documents via email.

### Analysis

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

## **#1 MONETARY ORDER FOR UNPAID RENT → \$6,000.00**

Section 55 (1.1) states that if a tenant applies to dispute a landlord's notice to end a tenancy, then the director must grant an order requiring the payment of the unpaid rent by the tenant, if the following circumstances apply:

- (a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice;

I find that the 10 Day Notice complies with section 52 of the Act, as to form and content. Further, I uphold the Landlord's 10 Day Notice to end the tenancy. Further, as the Tenant failed to attend the teleconference hearing, and because she has vacated the residential property, I **dismiss the Tenant's Application wholly** without leave to reapply. Accordingly, I find that the Landlord is eligible for a monetary order pursuant to the Tenants' Application.

I find from Counsel's undisputed testimony that the Tenant has not paid the Landlord any rent since November 2022. As such, I **award the Landlord with \$6,000.00** for the Tenant's unpaid rent from December 2022 through May 2023, pursuant to sections 55 (1.1) and 67 of the Act. I grant the Landlord a **Monetary Order** from the Tenant of **\$6,000.00**.

## **#2 REQUEST TO SERVE TENANT VIA EMAIL**

This request for the issuance of a substituted service order is made pursuant to section 71 of the Act. This section enables me to issue an order that a document may be served by substituted service in accordance with the order, despite the service provisions of section 88 of the Act.

Residential Tenancy Guideline #12 deals with the service of documents. With respect to orders for substituted service, the Guideline states:

An application for substituted service may be made at the time of filing the application or at a time after filing. The party applying for substituted service must be able to demonstrate two things:

- that the party to be served cannot be served by any of the methods permitted under the Legislation, and
- that there is a reasonable expectation that the party being served will receive the documents by the method requested.

Under section 88 of the Act, a landlord may serve a tenant with all documents, other than those referred to in section 89, by ten methods, including by any means of service provided for in the regulations. Section 43 of the Regulation states for the purposes of section 88, the documents described in section 88 may be served on a person by emailing a copy to an email address provided as an address for service by the person.

I accept the Landlord's statement that the Tenant cannot be served by any of the methods permitted by section 88 of the Act, other than by email. I have reviewed the Landlord's documentary evidence and I find that pursuant to this evidence, the Landlord is eligible for an Order for Substituted Service of the Monetary Order.

I find that the Landlord has provided evidence which demonstrates that the Tenant can receive documents by the email address the Landlord used to communicate with the Tenant during the tenancy. I further find that it would be reasonable to conclude from this that the Tenant would receive the Monetary Order, if served to the Tenant by email.

For this reason, I allow the Landlord substituted service of the Monetary Order by email to the email address evident in the Landlord's evidence of the Tenant having emailed the Landlord as of May 4, 2023.

Conclusion

The Tenant is unsuccessful in her Application, as the Tenant failed to attend the hearing. Further, the undisputed evidence before me is that the Tenant has failed to pay any rent to the Landlord for the last six months.

The Landlord is granted a **Monetary Order** of **\$6,000.00** from the Tenant. This Order must be served to the Tenant by the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

The Landlord is granted an **Order for substituted service** and may serve the Monetary Order, to the Tenant by email, as set out above. I Order that documents served in this manner have been sufficiently served to the Tenant for the purposes of the Act, three days after the date of service by email.

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: May 08, 2023

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Residential Tenancy Branch