



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR

### Introduction

The tenants applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The tenants ask me to cancel a 10-day Notice to End Tenancy for Unpaid Rent, issued in February 2023 [the 'Notice'].

The landlords appeared at the hearing on 25 April 2023. The tenants did not.

### Preliminary Matter

The tenants did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 1100 hours and ended about 36 minutes later. I confirmed:

1. that the RTB had provided the correct call-in numbers and participant codes in the Notice of Hearing; and
2. by reviewing the teleconference system, that the landlords and I were the only ones who had called into this teleconference;

Rule 7.3 of the RTB Rules of Procedure reads:

#### 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 tenants failed to attend this hearing, but I conducted it in their absence. I was satisfied that they had notification of the hearing of their own application and how to participate.

### Issue to be Decided

Are the landlords entitled to an order against the tenants for unpaid rent?

### Background and Evidence

The landlords told me that the tenants had moved out of the unit on 7 April.

As for the Notice, the landlords told me the following:

1. they personally gave it to the tenants on 2 February;
2. the Notice was an RTB form; and
3. they did not keep a copy of this Notice, or any notes of what they wrote in the Notice.

The landlords proffered a photograph of a person standing before a table on which were spread out several documents. The landlords told me that the person was the tenants, and that the documents were the Notice.

But the photograph that the landlords uploaded was grainy and otherwise of poor quality: on enlarging it, I could not make out any details of what the documents were, let alone what was written on them.

I asked the landlords if they had the original digital file of the photograph. But they told me that all they had of this photograph was a print of it, which could not be enlarged.

The landlords had no other evidence regarding the efficacy of the Notice.

### Analysis

Though this application was brought by the tenants, section 55 (1.1) of the *Residential Tenancy Act* [the 'Act'] requires me to order that a tenant pay unpaid rent to the

landlords in certain circumstances. But, for section 55 (1.1) to apply, there must be evidence of the efficacy of the notice to end tenancy.

What makes an effective notice? Section 52 of the Act sets out the requirements of an effective notice. In sum, it tells us that in circumstances such as I have before me, the landlord must have:

1. used the form approved by the RTB;
2. signed and dated the notice;
3. recorded the address of the rental unit;
4. recorded the effective date of the notice; and
5. stated the basis for the notice as the tenant's failure to pay rent.

But the landlords in this case could only prove that the Notice fulfilled one of these requirements: that it was in a form approved by the RTB. Without more detail about the Notice, I cannot find that it is effective under section 52, and this means section 55 (1.1) is inapplicable. In other words, I shall not make an order that the tenants pay anything to the landlords.

I note that this decision does not preclude the landlords from bringing their own application against the tenants for unpaid rent. Should they do so, they will no doubt want to have evidence to support their claim.

### Conclusion

I dismiss the tenants' application to cancel the Notice, without leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: 3 May 2023

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Residential Tenancy Branch