



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CRN, MNDCT, DRI, OLC, FT

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the *Residential Tenancy Act* (the “Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) issued on March 1, 2023, for monetary compensation for loss or other money owed, to dispute a rent increase that is above the amount allowed by law, to have the landlord provide services or facilities required by law, to have the landlord comply with the Act, and to recover the cost of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant’s request to set aside the Notice and the tenant’s application to recover the filing fee at these proceedings. The balance of the tenant’s application is dismissed, with leave to reapply.

### Issue to be Decided

Should the Notice be cancelled?

### Background and Evidence

The tenancy began in 2006. The parties agreed as of March 1, 2020, rent in the amount of \$1,485.00 was payable on the first of each month. Neither party remembered the amount of the security deposit paid by the tenant.

The parties agreed that the tenant was served with the Notice, which the tenant disputed within the required time limit.

The tenant testified that back in September of 2021 the landlord's daughter was picking up the rent every month and they informed the landlord's daughter that due to Covid that their daughter, who was a care aid worker lost clients and that they could no longer afford the rent and they would likely have to move.

The tenant testified that the landlord's daughter was going through they own issues and spoke to the landlord because they did not want them to leave, and they reached an agreement that the rent would be lowered by \$200.00 per month commencing October 2021.

The tenant testified that they have no issues with the rent being re-established to the original amount of \$1,485.00 and agree to the rent being increase to the allowable amount commencing June 1, 2023; however, they feel that it is unfair that the landlord issued the Notice for rent arrears when this was never discussed.

The tenant testified that they would never have agreed to continue to rent the premises if they were informed that the rent of \$200.00 was to accrue as arrears as they could not afford the rent, let alone to repay arrears. The tenant stated this was never discussed at all and then all of a sudden they receive a letter on February 20, 2023, demanding payment of the arrears going back over 2 years, which was very shocking to them.

The landlord's agent testified that the landlord did agree to lower the rent. The agent stated that many of their other tenants were having difficulties with rent due to Covid and they made payment arrangements. The agent stated it is unreasonable to think a landlord would lower the rent to help out a tenant and not expect to be reimbursed. The agent stated that the tenants rent was already below market rent.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I accept the evidence of both parties that the rent was lowered to the amount of \$1,2485, commencing October 1, 2021. However, I do not accept the landlord's agent testimony that the tenant agreed that the amount of \$200.00 would accumulate as arrears each month based on the following.

The tenant was unable to afford the rent due to their daughter losing their employment. The landlord agreed to reduce the rent only after the tenant informed the landlord that they would likely have to move. It is unreasonable to believe that the tenant would agree to accumulate arrears knowing that they were willing to vacate the rental unit because they could not afford the rent.

Further, I would expect to see from the landlord a written agreement that the tenant agreed to accumulate rent arrears, or alternately some form a corresponded over the following months or even years, asking the tenant when they can recommence the rent payments and pay the arrears. No correspondence or any communication was ever discussed with the tenant in over two years, until they received a demand letter given on February 20, 2023.

Furthermore, the landlord's agent was not present when the discussion occurred with the tenant and the landlord's daughter. I would have expected that the landlord's daughter would have attended the hearing to provide evidence on this issue. I find the landlord has failed to prove their version of events.

I find the tenant had a right to rely upon the actions of the landlord that the rent was lowered to \$1,285.00, with no arrears accruing. Therefore, I find the Notice is not valid and is cancelled. The tenancy will continue until legally ended in accordance with the Act.

However, as the tenant agreed rent was re-established at \$1,485.00 and there is a current balance of \$200.00 owing to the landlord. I find the tenant must pay the amount owing by May 10, 2023.

As the tenant agreed that the rent of \$1,485.00 should be increased by the allowable amount on June 1, 2023. I find as of June 1, 2023, rent in the amount of \$1,514.70 is payable to the landlord.

As the tenant was successful with their application, I find the tenant is entitled to recover the cost of the filing fee. Therefore, I find the tenant is entitled to deduct a onetime payment of \$100.00 from a future rent payable to the landlord.

### Conclusion

The tenant application to cancel the Notice is granted. The tenant is entitled to a onetime rent reduction of \$100.00 to recover the cost of the filing fee. Rent as of June 1, 2023, is payable in the amount of \$1,514.70.

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: May 03, 2023

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Residential Tenancy Branch