



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNR

### Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the tenant’s May 4, 2023, application to the Residential Tenancy Branch for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to section 46(4)(b) of the Act.

### Preliminary Issue – Amendment to the landlord’s name

The landlord corrected the landlord’s name. Pursuant to section 64(3)(a) of the Act, I amend the application to correct the name of the landlord.

### Issues

1. Is the tenant entitled to an order cancelling the Notice?
2. If not, is the landlord entitled to an order of possession?

### Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The tenancy began February 1, 2023. Rent is \$3,600.00 due on the first day of the month. The landlord currently retains a \$1,800.00 security deposit. There is a copy of the written tenancy agreement in evidence.

The landlord served the Notice on May 2, 2023, by attaching a copy to the door of the rental unit. Page two of the Notice indicates that the tenant did not pay rent in the amount of \$3,600.00 that was due on May 1, 2023. All pages of the Notice were served and submitted into evidence.

The landlord affirmed that:

- the tenant is currently \$4,700.00 in rental arrears, representing unpaid rent from May 2023 to the present.
- the tenant also owes \$300.00 for parking spot rental and locker rental for May 2023 to the present.
- the total amount the landlord is claiming is \$5,000.00.

The tenant affirmed that the tenant owes the landlord \$5,000.00 for unpaid rent, parking spot rental and locker rental.

### Analysis

Section 26 of the Act requires tenants to pay rent the day it is due unless they have a legal right to withhold rent. Section 46(1) of the Act allows landlords to end a tenancy with a *10 Day Notice to End Tenancy for Unpaid Rent* on any day rent remains unpaid after the day rent is due.

Both parties agreed that the tenant owes the landlord \$5,000.00 for unpaid rent, parking spot rental and locker rental. Therefore, I find on a balance of probabilities that the Notice was given for a valid reason. I also find that the Notice complies with the form and content requirements of section 52. As a result, the tenant's application to cancel the Notice is dismissed.

Based on the above findings, the landlord is granted an order of possession under section 55(1) of the Act. A copy of the order of possession is attached to this Decision and must be served on the tenant.

Since the application relates to a section 46 notice to end tenancy, the landlord is entitled to an order for unpaid rent under section 55(1.1) of the Act. Therefore, the tenant is ordered to pay \$5,000.00 in unpaid rent to the landlord.

Pursuant to sections 38 and 72 of the Act, the landlord is ordered to retain the \$1,800.00 security deposit as partial satisfaction of the payment order. A monetary

order for the remaining amount of \$3,200.00 is attached to this Decision and must be served on the tenant.

Conclusion

The application is dismissed without leave to reapply. The landlord is granted an order of possession and a monetary order in the amount of \$3,200.00.

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: June 22, 2023

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Residential Tenancy Branch