



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Municipal Affairs

## DECISION

Dispute Codes      CNR, OLC / OPR-DR, MNR-DR, FFL

### Introduction

This reconvened hearing dealt with Applications for Dispute Resolution (the Applications) from both parties under the *Residential Tenancy Act* (the Act), which were crossed to be heard simultaneously.

In their Application, the Tenant seeks:

- An order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) under section 46(4) of the Act; and
- An order for the Landlord to comply with the Act, the *Residential Tenancy Regulation* (the Regulation), or tenancy agreement under section 62 of the Act.

In their Application, the Landlord seeks:

- An Order of Possession and a Monetary Order for unpaid rent based on the Notice under sections 46 and 55 of the Act; and
- To recover the filing fee for their Application from the Tenant under section 72 of the Act.

A previous hearing took place on December 16, 2025, which was adjourned due to time constraints under an interim decision of the same date. The Tenant and Agents for the Landlord attended both hearings. The Landlord attended the second hearing only. This Decision should be read in conjunction with the previous interim decision.

At times, the hearings were chaotic and there were issues with the availability of translators arranged by the Residential Tenancy Branch (the Branch) which clearly caused confusion for the parties. I reiterate the apologies I gave during the hearings and thank both parties again for the patience they showed.

Service of Notice of Dispute Resolution Proceeding and Evidence

The Tenant affirmed that they provided the Notice of Dispute Resolution Proceeding Package for their Application (the Materials) to the Landlord by leaving a copy in their mailbox on November 18, 2025. The Landlord's Agent denied the Tenant received the Materials, though acknowledged receiving a copy from the Branch on November 27. In these circumstances, I find the Landlord has received sufficient notice of the Tenant's Application and under section 71(2)(c) of the Act I find the Materials were sufficiently served for purposes of the Act.

The Landlord's Agent acknowledged receipt of the Tenant's evidence provided ahead of the first hearing. Given this, I find that these records were served as required under section 88 of the Act.

The Tenant provided additional evidence to the Branch after the first hearing. As the parties had already begun their submissions on the disputes raised in the Application, I did not allow further evidence to be provided after the first hearing was adjourned. This was outlined in the interim decision dated December 16, 2025. Given this, I did not admit the Tenant's additional evidence to consideration.

The Landlord's Agent affirmed that the Materials for the Landlord's Application and their evidence were served to the Tenant on November 21, 2025 by attaching to the door of the rental unit. A witnessed proof of service form was provided by the Landlord as well as a photograph appearing to show the Materials arranged into four bundles of paperwork attached to the door of the rental unit.

The Tenant denied receiving the Materials and the Landlord's evidence however, I find Landlord has adequately demonstrated these records were served as required for the purposes of sections 88(g) and 89(2)(d) of the Act and I find they were deemed received on November 24, three days after service, under section 90(c) of the Act.

Preliminary Issue – Unrelated Claim

The Tenant applied for multiple remedies under the Act, some of which were not sufficiently related to one another. Rules 2.3 and 6.2 of the *Rules of Procedure* (the Rules) set out that claims made in an application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After reviewing the issues raised by the Tenant, I determined that the primary and most pressing issue is their request to cancel the Notice. The outcome of this claim could potentially result in an end to the tenancy, and the hearing was scheduled based on the urgency of this issue. I find the other issue raised by the Tenant was not sufficiently related. I therefore exercised my discretion to dismiss with leave to re-apply, the Tenant's claim made under section 62 of the Act. Leave to reapply is not an extension of any applicable time limit. I make no findings regarding the merits of this claim.

### Issues to be Decided

- Is the Notice cancelled?
- If not, is the Landlord entitled to an Order of Possession and a Monetary Order for unpaid rent?
- Can the Landlord recover the filing fee for their Application from the Tenant?

### Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this Decision.

Evidence was provided indicating that the tenancy began on September 1, 2025 with monthly rent of \$750.00 due on the last day of the month. A security deposit of \$400.00 was paid by the Tenant which the Landlord still holds. A written tenancy agreement was signed by the parties on August 28, a copy of which was provided as evidence. The Tenant still occupies the rental unit, a room within multi-unit residential property.

It was the Landlord's position that the last time the Tenant paid rent was on September 30, 2025. The payment due on the last day of October was missed. Because of this, the Notice was issued to the Tenant on both November 4 and 14 by attaching to the door of the rental unit. Since then, no payments were received from the Tenant, leaving three months of unpaid rent totalling \$2,250.00.

The Landlord's side indicated that two identical Notices, both of which were signed, were served to the Tenant. Two Notices were served to ensure the Tenant received at least one copy, per the Landlord. The Landlord indicated they provided two Proof of Service records on the approved Residential Tenancy Branch form # 34, though they then acknowledged only one had been provided, and then sought to rely on photographs purportedly showing the Notices being attached to the door.

The Landlord provided one copy of the Notice as evidence, which is on the approved form, is signed and dated November 3, 2025 and provides an effective date of November 13. The reason for ending the tenancy set out on the Notice is that the Tenant failed to pay rent of \$750.00 due on November 1.

The Tenant did not dispute the pattern of rent payments put forward by the Landlord's side and indicated that they refused to pay rent out of principle. They alleged that other occupants of the residential property had blocked the Tenant's use of the main door, meaning that instead of having a relatively short pathway to the rental unit using a small number of stairs, they instead had to use a door at the back of the property which meant a more inconvenient route. The Tenant also alleged that the heating in the rental unit was not adequate.

The Tenant affirmed that the Landlord ignored requests to resolve the problem with heating. This, coupled with the issue relating to their access to the rental unit led them to the conclusion that services that were included in rent were withdrawn by the Landlord, so they therefore felt they did not have to pay for them. It was acknowledged there were no agreements in place for any deductions from rent to be made.

The Tenant acknowledged receiving one copy of the Notice. They were unsure which day this was, though it was soon after they had been discharged from hospital which was between November 14 and 17, 2025. The Tenant believed they had missed the deadline to dispute the Notice by one day.

The Tenant affirmed that the one copy of the Notice they received was not signed. A copy was provided as evidence and includes the same information as that provided on the document submitted by the Landlord, albeit being handwritten in ink rather than typed, includes the same apparent spelling error in the Tenant's name, and is also dated November 3, 2025, but is not signed and does not list the name of the Landlord or their Agent.

### Analysis

Rule 6.6 states that the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 26 of the Act requires tenants to pay rent on time whether or not the landlord complies with this Act, the Regulation, or the tenancy agreement unless they have a legal right to withhold some, or all, of the rent.

Section 46(1) of the Act states that a landlord may end a tenancy if rent is unpaid by giving a notice to end tenancy on any day after it is due.

There are limited circumstances where a tenant can make deductions from rent, which include:

- When a tenant has paid a security deposit or pet damage deposit above the allowed amount;
- Reimbursement of costs incurred by the tenant for emergency repairs;
- When a landlord collects rent for a rent increase that does not comply with the Act or Regulation;
- When a tenant has received a notice to end tenancy for Landlord's Use of Property under section 49 of the Act;
- If the landlord gives authorization to not pay rent; or
- As ordered by an arbitrator.

It was undisputed that the Tenant had not paid rent since September 30, 2025. Though the Tenant took issue with alleged problems with the heating in the rental unit and changes in access to the residential property, these do not translate to an automatic right to make deductions from rent. The Tenant may seek authorization from an arbitrator of the Branch to withhold an amount from rent, but this had not been done, nor had the Landlord consented to any deductions from rent.

I find there is only one ground on which the Tenant had a valid reason to make deductions from rent and that is under section 19 of the Act, which states that if a landlord accepts a security deposit that is greater than half a month's rent, the tenant may deduct the overpayment from rent. As monthly rent is \$750.00, the maximum amount the Landlord could have collected was \$375.00. Since the Tenant paid a security deposit of \$400.00, they were therefore entitled to deduct \$25.00 from rent.

It is undisputed that the Tenant deducted the entirety of rent due October 31, 2025, and aside from the \$25.00 mentioned above, I find the Tenant did not have a valid reason to do so. Given this, the Landlord had valid reason to issue the Notice under section 46(1) of the Act for non-payment of rent.

I dismiss the Tenant's request to cancel the Notice based on the above. Under section 55(1) of the Act an Order of Possession must be issued to the Landlord if the Notice complies with the form and content requirements set out in section 52 of the Act.

Section 52 of the Act states that in order to be effective, a notice to end a tenancy must be in writing and must, among other things, be signed by the landlord or tenant giving the notice. There are significant issues to address in this regard.

Whilst the Landlord provided a copy of the Notice that is signed and is otherwise fully compliant with section 52 of the Act, I am not satisfied on a balance of probabilities that it was given to the Tenant in accordance with section 88 of the Act, which is a requirement of a notice issued for unpaid rent, as set out in section 46(1) of the Act, as noted above.

I found the Landlord's evidence on the issue of service of the Notice and its form and contents to be inconsistent and unreliable. The Landlord's position was that two identical copies of the Notice were served to the Tenant in the same manner – by attaching to the door of the rental unit – on November 4 and 14, 2025. It was initially argued that the Landlord provided witnessed proof of service forms for both instances of service, then it was acknowledged only one was provided. I found the reasons for giving two Notices was not clear and suggests concerns about defects with service from the Landlord's side.

On the contents of the Notice itself, the Landlord took the position that both copies of the Notice they purportedly served to the Tenant were signed. The Tenant provided a copy that was not signed, nor did it list the name of the Landlord or their Agent. I find it unlikely the Tenant would have fabricated an additional copy of the Notice, particularly with a minor spelling mistake in their own name. From this, I find the Tenant has clearly been served with an unsigned Notice, contrary to the Landlord's position.

Though the Landlord provided a photograph appearing to show documents attached to the door of the rental unit, I do not find this evidence sufficient in establishing a signed Notice was served to the Tenant. The quality of the image is not sufficient to allow me to discern whether this was the case.

Because of the above-mentioned issues with reliability and inconsistencies with the Landlord's evidence, I find it more likely than not that the only copy of the Notice given to the Tenant was unsigned. As noted above, section 52(a) of the Act states that in order to be effective, a Notice to End Tenancy must be signed by the landlord or tenant

giving the notice. Given that I have found the Notice was not signed, I find the Notice does not comply with section 52(a) of the Act.

Whilst section 68(1) of the Act allows a Notice to End Tenancy that does not comply with section 52 of the Act to be amended, I find it would not be a reasonable application of discretion afforded to me under section 68 of the Act to add the Landlord's signature to the Notice. I find that to do so would render section 52(a) of the Act essentially meaningless and would be outside of the limits of discretion provided under the Act.

For completeness, there are issues with the Notice that I am willing to remedy, namely the amount of rent that went unpaid, which should read \$725.00 given the Tenant was able to withhold \$25.00 under section 19 of the Act, and the date the rent was due on which should read October 31, 2025, not November 1.

Though the Tenant's Application for cancellation of the Notice is dismissed, because I find the Notice given to the Tenant does not comply with section 52 of the Act, the Notice is of no effect. The Landlord is not entitled to an Order of Possession by operation of either section 55(1) or (2) the Act. I dismiss the Landlord's Application without leave to reapply.

For clarity and to summarize the above, save for the \$25.00 for overpayment of the security deposit I find the Tenant was not entitled to withhold any amount from rent and the Landlord had a valid reason to issue the Notice under section 46 of the Act. As the evidence before me indicates the Tenant was not served with a copy of the Notice that complies with section 52 of the Act, this tenancy continues until ended in accordance with the Act.

The Landlord is at liberty to issue another Notice to End Tenancy for Unpaid Rent if the issue of unpaid rent is unresolved, though they must be prepared to establish any notice issued complies with section 52 of the Act should it be the subject of a future application for dispute resolution.

Since the Landlord's Application was unsuccessful, they must bear the cost of the filing fee. Their request under section 72(1) of the Act is dismissed without leave to reapply.

Conclusion

Both Applications are 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 Act.

Dated: January 12, 2026

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Residential Tenancy Branch