



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OLC, FFT

### Introduction

On September 26, 2018, the Tenant applied for dispute resolution to cancel a 1 Month Notice To End Tenancy for Cause.

The matter was set for a conference call hearing. The Landlords and Tenant were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Did the Tenant dispute the 1 Month Notice to End Tenancy in time?
- Is the Landlord entitled to an order of possession of the rental unit?

### Background and Evidence

The parties testified that the tenancy started on May 31, 2018. Rent in the amount of \$1,250.00 is due to be paid to the Landlord by the last day of each month. The Tenant paid the Landlord a security deposit of \$625.00. The Tenant lives in a self-contained unit at the Landlords home.

The Landlord testified that he served a 1 Month Notice To End Tenancy for Cause dated September 13, 2018, to the Tenant by posting it to the Tenant's door.

The Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. If a Tenant does not file an Application within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit or vacate the site by the effective date of the Notice. If the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

The Tenant testified that she received the 1 Month Notice on September 15, 2018. The Tenant applied to dispute the 1 Month Notice on September 26, 2018. The Tenant did not provide a copy of the 1 Month Notice when she filed the dispute.

The parties confirmed that the 1 Month Notice was issued on the proper form and is dated and signed by the Landlord. The effective date of the Notice is October 31, 2018. The Landlord provided a copy of the 1 Month Notice after the hearing concluded.

The Landlord requested an order of possession for the rental unit. The Landlord testified that the Tenant has paid the rent for November 2018, agreed to an effective date of the Order of Possession to be the end of November 2018.

### Analysis

Section 47(5) of the Act states:

*If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.*

Based on the evidence and testimony before me I make the following findings:

I find that the Tenant received the 1 Month Notice on September 15, 2018. The Tenant's application to dispute the 1 Month Notice was made on September 26, 2018 and is late.

The Tenant's application did not include a request for more time to dispute a notice to end tenancy.

I find that pursuant to section 47 (5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must vacate the rental unit. The Tenant's application to dispute the 1 Month Notice is dismissed.

I find that the Landlord is entitled to an order of possession of the rental unit, pursuant to section 55 of the Act. I grant the Landlord an order of possession effective no later than 1:00 pm on November 30, 2018, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

### Conclusion

The Tenant failed to dispute the 1 Month Notice within 10 days of receiving the Notice. The Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must vacate the rental unit.

The Tenant's application is dismissed.

The Landlord is granted an order of possession effective no later than 1:00 pm on November 30, 2018, after service on the Tenant.

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: November 06, 2018

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Residential Tenancy Branch