



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes**      CNC FFT

### **Introduction**

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*.

While the landlord and his spouse attended the hearing by way of conference call, the tenant did not. I waited until 9:46 a.m. to enable the tenant to participate in this scheduled hearing for 9:30 am. The landlord and his spouse were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application"). In accordance with section 89 of the *Act*, I find that the landlord was duly served copies of the tenant's application. The landlord testified that they only received a portion of the tenant's evidentiary materials, which include the chronological narrative submitted by the tenants. The landlord testified that the tenant attempted to serve them the remaining materials by way of email, which the landlord could not open. The landlord did not receive from the tenant a copy of the 1 Month Notice that was submitted, but verified the contents of the 1 Month Notice, and indicated that they took no issue with the admittance of this document for the purpose of this hearing. As the landlord was only served with the chronological narrative in accordance with section 88 of the *Act*, the remaining portion of the tenant's evidentiary materials will be excluded with the exception of the 1 Month Notice.

The landlord testified that the tenants were served with their evidentiary materials by way of registered mail on October 2, 2019. In accordance with sections 88 and 90 of the

Act, I find the tenant deemed served with the landlord's evidence package on October 7, 2019, 5 days after mailing.

The landlord testified that the 1 Month Notice to End Tenancy for Cause dated August 31, 2019, with an effective date of September 30, 2019 ("the 1 Month Notice") was personally served to the tenant on August 31, 2019. Accordingly, I find that the 1 Month Notice was duly served to the tenant in accordance with section 88 of the Act.

Rule 7.3 of the Rules of Procedure provides as follows:

**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.

**In the absence of submissions from the applicant in the hearing, I order the tenant's entire application dismissed without liberty to reapply.**

**Section 55(1)** of the Act reads as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
  - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

A copy of the 1 Month Notice was submitted by the tenant for this hearing, and I find that the landlord's 1 Month Notice fails to comply with section 52 of the Act, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Section 47(1) of the *Act* allows a landlord to end a tenancy for cause for any of the reasons cited in the landlord's 1 Month Notice. Although the landlord provided handwritten reasons for why they are seeking the end of this tenancy, the landlord did not clearly indicate which of the grounds under section 47(1) of the *Act* the landlord is seeking the end of this tenancy for. I find that the 1 Month Notice does not comply with section 52(d) of the *Act*, and accordingly the 1 Month Notice is cancelled and is of no force or effect.

This tenancy will continue until ended in accordance with the *Act* and tenancy agreement.

### **Conclusion**

The tenant's entire application is dismissed without leave to reapply.

I find that the 1 Month Notice does not comply with section 52 of the *Act*. The 1 Month Notice dated August 31, 2019 is therefore cancelled and is of no continuing force or effect. This tenancy continues until ended in accordance with the *Act*.

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 5, 2019

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Residential Tenancy Branch