



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes OPC

Introduction and Analysis

This hearing dealt with a Review Hearing of the landlord's original Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated August 22, 2019 (1 Month Notice).

On November 1, 2019, an arbitrator issued a decision granting the landlord an order of possession. The tenant did not attend the hearing, and applied for a Review Consideration of the November 1, 2019 decision and order, citing that they were unable to attend the hearing due to service issues.

On November 5, 2019 a different arbitrator suspended the November 1, 2019 decision and orders pending the outcome of this Review Hearing held on this date, January 2, 2020.

The landlord and the tenant attended the Review Hearing scheduled for this date, January 2, 2020. During the hearing, the landlord confirmed that they did not serve the Residential Tenancy Branch (RTB) with a 48-page document that they intended to rely on in support of their original application. The landlord affirmed that they were not aware that they had to serve all evidence on the Residential Tenancy Branch. The parties were advised that the Review Consideration Decision dated November 5, 2019 (Review Consideration Decision) stated clearly on page six the following:

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to rely upon at the new hearing.

As a result, I find the landlord failed to serve the RTB as directed in the Review Consideration Decision. As the landlord failed to serve the RTB as directed, and the

parties could not agree on the service of documents, pursuant to section 82(3) of the Act, **I set aside** the original decision and order of possession dated November 1, 2019 as I am not satisfied on service by the landlord.

The landlord is at liberty to re-issue a new 1 Month Notice.

Conclusion

The original decision and order of possession are set aside and are of no force or effect.

The landlord is at liberty to issue a new 1 Month Notice.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: January 2, 2020

Residential Tenancy Branch