



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, MNDC, MNR, FFL (Landlords application)  
                              CNC, MNDC, RR, OLC, FFT (Tenant's application)

### Introduction

This was a cross-application hearing for Dispute Resolution under the *Residential Tenancy Act* ("the Act").

On March 16, 2020, the Tenant applied to cancel a One Month Notice to End Tenancy for Cause and also applied for money owed or compensation for damage or loss. The Tenant also applied for a rent reduction, and an order that the Landlord comply with the Act, Regulation, or tenancy agreement.

On March 17, 2020, the Landlords applied for an order of possession for the rental unit based on the issuance of a One Month Notice to End Tenancy for Cause. The Landlords also applied for a monetary order for money owed or compensation for damage or loss, and a monetary order for unpaid rent.

These matters were set for hearing by telephone conference call at 11:00 am on this date. The Landlords attended the hearing; however, the Tenant did not. The line remained open while the phone system was monitored for twenty-eight minutes and the Tenant did not call into the hearing during this time. Therefore, as the Applicant / Tenant did not attend the hearing by 11:28 am, I dismiss the Tenant's application.

The Landlords testified that the Tenant never served them with a Notice of Dispute Resolution Proceeding document to attend a hearing. The Landlords were not aware of the Tenant's application and claims.

This hearing proceeded on the Landlords application for dispute resolution. The Landlords provided affirmed testimony that on March 27, 2020 they served the Tenant with the Notice of Dispute Resolution Proceeding using registered mail addressed to the

Tenant at the dispute address. The Landlord provided a copy of the registered mail receipt as proof of service. The Landlords testified that the Tenant picked up the registered mail.

I find that the Tenant was served with notice to attend the hearing in accordance with section 89 and 90 of the Act. The Tenant is deemed to have received the Notice of Dispute Resolution Proceeding on April 1, 2020 the fifth day after it was mailed.

The Landlords 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.

#### Preliminary and Procedural Matters

The Residential Tenancy Branch Rules of Procedure permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. For example, if a party has applied to cancel a notice to end tenancy, or is applying for an order of possession, an Arbitrator may decline to hear other claims that have been included in the application and the Arbitrator may dismiss such matters with or without leave to reapply.

I find that the most important matter to determine is whether or not the tenancy is ending based on the One Month Notice to End Tenancy for Cause. The Landlords other claims are dismissed with leave to reapply.

#### Issues to be Decided

- Has the tenancy ended and is the Landlord entitled to an order of possession?
- Are the Landlords entitled to recover the cost of the filing fee?

#### Background and Evidence

The Landlords testified that the tenancy began on February 1, 2015. Rent in the amount of \$922.12 is due to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$475.00

#### One Month Notice

The Landlord testified that the Tenant was served with a One Month Notice to End Tenancy dated March 6, 2020. The reason for ending the tenancy within the One Month Notice is:

*Tenant is repeatedly late paying rent*

The One Month 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.

The Tenant disputed the One Month Notice on March 16, 2020 within the required time period.

The Landlord testified that the Tenant never served them with a Notice of Dispute Resolution Proceeding for the dispute of the One Month Notice. The Tenant did not appear at the hearing to pursue her application or to respond to the Landlords application for an order of possession.

The Landlords testified that the Tenant remains living in the rental unit and has not paid any rent for May 2020, or the past few months. The Landlord requested an order of possession for the rental unit.

### Analysis

Based on the evidence and testimony of the Landlord, and on a balance of probabilities, I make the following findings:

The Tenant never served the Landlord with a Notice of Dispute Resolution Proceeding and did not attend the hearing to pursue her application to dispute the One Month Notice to End Tenancy for Cause dated March 6, 2020. The Tenant failed to follow through on the dispute of the Notice by serving the Landlords. I find that this has the same effect as not disputing the One Month Notice. Furthermore, the Tenant failed to attend the hearing for her application. The Tenants application is dismissed without leave to reapply.

Under section 55 of the Act, when a Tenant's Application to cancel a notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

In the Tenant's application, she provided a copy of a One Month Notice to End Tenancy for Cause containing the signature of the Landlord. The Landlord testified that the copy the Landlord provided in the Landlords' evidence is not signed by the Landlord; however, the copy served on the Tenant was signed by the Landlord.

I find that the Landlords' testimony is consistent with the evidence I have before me. I find that the One Month Notice to End Tenancy for Cause dated March 6, 2020 complies with the requirements under section 52 of the Act.

I find that the tenancy ended on the effective date of the One Month Notice. The Tenants are over-holding the rental unit. I find that the Landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective two days after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. The Landlords were successful with their application for an order of possession. I authorize the Landlords to keep the amount of \$100.00 from the security deposit.

### Conclusion

The Tenant never served the Landlords with a Notice of Dispute Resolution Proceeding and did not attend the hearing to pursue her application to dispute the One Month Notice to End Tenancy for Cause dated March 6, 2020. The Tenant's application is dismissed without leave to reapply.

The tenancy has ended. The Landlord is granted an order of possession, pursuant to section 55 of the Act, effective two days after service on the Tenants.

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: May 12, 2020

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Residential Tenancy Branch