



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNC, FFT

### Introduction

In this dispute, the tenant sought to cancel a One Month Notice to End Tenancy for Cause (“the Notice”) pursuant to section 47 of the *Residential Tenancy Act* (the “Act”). The tenant also sought recovery of the filing fee under section 72 of the Act.

The tenant filed an application for dispute resolution on August 25, 2020 and a dispute resolution hearing was held on September 21, 2020. Only the tenant attended the hearing, which commenced at 9:30 AM and concluded at 9:42 AM.

Regarding the service of the Notice of Dispute Resolution Proceeding package, the tenant testified that she served the landlord, in person, on August 29, 2020 at approximately 9:30 AM. Service was witnessed by a third party. Based on this evidence I find that the landlord was served in accordance with the Act.

### Preliminary Issue: Non-Attendance of Landlord

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.

Where a tenant applies to dispute a One Month Notice to End Tenancy for Cause, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the Notice is based. Given that the landlord failed to attend the hearing to prove the grounds (that is, the reasons) on which the Notice was given, I therefore order that the Notice is cancelled effective immediately. The Notice is of no force or effect and the tenancy shall continue until it is ended in accordance with the Act.

Finally, section 72(1) of the Act provides that an arbitrator may order payment of a fee under section 59(2)(c) by one party to a dispute resolution proceeding to another party. A successful party is generally entitled to recovery of the filing fee. As the applicant was successful in her application, I therefore grant her an award for the \$100.00 application filing fee, pursuant to section 72(1) of the Act.

Pursuant to section 72(2) of the Act, I order that the tenant may make a one-time deduction of \$100.00 from the rent for October 2020, in full satisfaction of the above-noted award.

Conclusion

**I grant the tenant's application, and order that the Notice is hereby cancelled.**

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: September 21, 2020

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Residential Tenancy Branch