



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding JOD Real Estate Co Ltd and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction and Preliminary Matter

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the tenant applied on April 4, 2022 for an order to cancel a One Month Notice to End Tenancy for Cause, dated March 27, 2022 (the One Month Notice).

The landlord did not attend the hearing, although I left the teleconference connection open until 11:11 am to enable the landlord to call into the hearing scheduled to start at 11:00 a.m. The tenant and her advocate attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The tenant's advocate testified she served the tenant's Notice of Dispute Resolution Proceeding (NDRP) and materials on the landlord by registered mail, within three days of it being available from the Residential Tenancy Branch, to the landlord's address as found on the One Month Notice. The NDRP is dated April 13, 2022. I accept the advocate's affirmed undisputed testimony, and find the tenant served the landlord on April 16, 2022, in accordance with section 89 of the Act, and deem the materials received by the landlord on April 21, 2022, in accordance with section 90 of the Act.

As a copy of the One Month Notice had not been submitted as evidence, I provided the tenant the opportunity to upload it by 2:00 p.m. on the day of the hearing, which she did.

### *Non-attendance of Landlord*

Residential Tenancy Branch Rule of Procedure 6.6 states:

#### **6.6 The standard of proof and onus of proof**

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. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

As such, despite this being the tenant's application, the landlord bears the evidentiary burden to prove it is more likely than not that the One Month Notice is valid.

As the landlord did not attend the hearing to prove the grounds on which the One Month Notice was issued, I find that the landlord has failed to meet their evidentiary burden. I cancel the Notice and find that the tenancy will continue until it is ended in accordance with the Act.

### Conclusion

The tenant's application is granted.

The One Month Notice is cancelled. The tenancy will continue until it is 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: July 29, 2022

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Residential Tenancy Branch