



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **FFT, CNC, OLC**

### Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “*Act*”) for:

- Authorization to recover the filing fee from the other party pursuant to section 72;
- An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55; and
- An order for the landlord to comply with the *Act*, regulations or tenancy agreement pursuant to section 62.

The tenant attended at the date and time set for the hearing of this matter. The landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:18 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

As only the tenant attended the hearing, I asked the tenant to confirm that he had served the landlord with the Notice of Dispute Resolution Proceeding for this hearing. The tenant testified that he had served the landlord with the notice of this hearing and his evidence by Canada Post registered mail on April 13, 2022, and referred to the Canada Post registered mail receipt with tracking number submitted into documentary evidence as proof of service. The registered mail tracking number is recorded on the cover sheet of this decision. I also note that the landlord submitted into evidence a letter with the landlord’s dispute access code referred to at the top of the page. Based on the above facts, I am satisfied the landlord was served with the Notice of Dispute Resolution Hearing package on April 18, 2022, five days after the day it was sent by registered mail, in accordance with sections 89 and 90 of the *Act*.

This hearing was conducted in the absence of the landlord pursuant to Rule 7.3 of the Residential Tenancy Branch Rules of Procedure.

### Preliminary Issue

As part of his application, the tenant sought an order that the landlord comply with the Act, regulations or tenancy agreement. In his application, the specific nature of the order sought was left blank in the spot which says, *“Please describe what you want the landlord to comply with and why”*. As such, I advised the tenant that the principles of fairness would be compromised if I were to grant such an order without the tenant identifying what order was being sought. I dismissed this portion of the tenant’s application with leave to reapply.

### Issue(s) to be Decided

Should the notice to end tenancy be upheld or cancelled?  
Can the tenant recover the filing fee?

### Background and Evidence

The tenant received a copy of the landlord’s 1 Month Notice to End Tenancy for Cause on March 29, 2022, when it was left in his mail slot. A copy of the notice was provided as evidence. The reasons for ending the tenancy are:

- the tenant or a person permitted on the property by the tenant has put the landlord’s property at significant risk;
- Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park;

Under “details of cause”, the landlord writes:

*tenant has built some outbuildings without landlord permission, has uninsured vehicles, storing too many items and belongings and does not allow landlord inspections. The tenant has acted in a threatening manner towards myself, the landlord. The property needs a cleanup as per city bylaws.*

At the hearing, the tenant testified that there was a motorhome on the property, but it was taken away 2 years ago. There was a tiny home on the lot, but that was moved offsite as well. A portable vehicle shelter erected in the winter was taken down as soon as the snow was gone. The uninsured vehicles are gone and all he has is the truck he drives to and from work daily.

The tenant does not know what the “significant risk” referred to in the notice to end tenancy is. He also denies that he has caused any extraordinary damage to the unit or property.

### Analysis

I am satisfied the tenant was served with the notice to end tenancy on March 29, 2022, and filed an application to dispute the notice within the 10 days as required under section 47 of the *Act*. If the tenant files the application, the landlord bears the burden to prove he or she has valid grounds to terminate the tenancy for cause, pursuant to rule 6.6 of the Residential Tenancy Branch Rules of Procedure. The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the Notice.

The Residential Tenancy Branch Rules of Procedure state:

#### ***7.1 Commencement of the dispute resolution hearing***

*The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.*

#### ***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.*

#### ***7.4 Evidence must be presented***

*Evidence must be presented by the party who submitted it, or by the party’s agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.*

The landlord did not attend this hearing to present any evidence to show she has valid grounds to terminate this tenancy for cause. Accordingly, in the absence of any testimony or evidence from the landlord, who bears the burden of proof in this matter, I find that the landlord has failed to prove the grounds for issuing the One Month Notice. Therefore, the tenant’s application is successful and the landlord’s One Month Notice is cancelled and of no force or effect.

The tenancy will continue until ended in accordance with the *Act*.

As the tenant’s application was successful, the tenant is also entitled to recovery of the \$100.00 filing fee for the cost of this application. In accordance with section 72 of the *Act*, I allow the tenant to deduct \$100.00 from any single rent due to the landlord.

Conclusion

The tenant was successful in his application to dispute the landlord's One Month Notice. I order that the One Month Notice to End Tenancy for Cause is cancelled and of no force or effect, and this tenancy shall 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 25, 2022

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Residential Tenancy Branch