



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution to cancel a One Month Notice to End Tenancy.

The Tenant and Agent for the Landlord appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

### Issue(s) to be Decided

Is the Tenant entitled to an Order cancelling the 1 Month Notice to End Tenancy?

Is the Landlord entitled to an Order of Possession?

### Background and Evidence

This month to month tenancy began September 1, 2008, current monthly rent is \$364.00, payable on the first day of each month, and the Landlord is holding a security deposit of in the amount of \$350.00.

Pursuant to the Rules of Procedure, the Landlord's Agent proceeded first in the hearing to support the cause listed in the Notice.

The Landlord submitted into evidence a copy of the tenancy agreement, copies of ten 10 Day Notices to End Tenancy issued to the Tenant for unpaid rent during the course of the tenancy, the most recent ones on June 8, July 9, November 5, 2010, and March 8, 2011, and two Final Warning Letters to the Tenant regarding late payments of rent

The evidence and affirmed testimony of the Landlord's Agent demonstrates that the Landlord issued a 1 Month Notice to End Tenancy for Cause (the "Notice") to the Tenant on March 8, 2011, by leaving a copy at the Tenant's residence with an adult who

apparently resides with the person, with a stated effective move out date of April 30, 2011.

The Landlord's Agent affirmed the evidence and testified that the Tenant had nine late payment occurrences of rent since the tenancy began and four within the last twelve months.

In response the Tenant did not deny the late payments of rent, but testified that she paid the March 2011, rent paid late due to a billing error by the utility company. The Tenant submitted that she had the entire March rent ready to pay for March 1, but did not as she was informed by the Landlord's front desk employee that it was permissible to pay the March rent in instalments so that her electric power would not be cut off.

In response, the Landlord's Agent stated that the front desk employee was a long time employee and would not have made this statement as it violates policy.

The Landlord's during the hearing made an oral request for an Order of Possession, for the effective date of the Notice.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Only the evidence and testimony relevant to the issues and findings in this matter are described in this Decision.

Residential Tenancy Policy Guideline #38 states that three late payments are the minimum number sufficient to justify a notice under these provisions. The Landlord established that the Tenant made four late payments of rent since June 2010, nine since the beginning of the Tenancy, and has been issued two warning letters about the late payments. Therefore, I find the Landlord submitted sufficient evidence to prove that the Tenant was repeatedly late in paying rent.

Therefore, I find the Notice is valid, that the Landlord made a verbal request for an Order of Possession, pursuant to Section 55 (1) of the Residential Tenancy Act, and is entitled to an order of possession effective at **1:00 p.m. on April 30, 2011**, the effective date of the Notice, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court should the Tenant fail to comply.

Conclusion

The Tenant's Application for Dispute Resolution is dismissed as the Landlord's Notice to End Tenancy is valid and may be enforced.

The Landlord is granted an Order of Possession, effective on April 30, 2011, at 1:00 p.m.

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: April 06, 2011.

---

Residential Tenancy Branch