



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, RR

### Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy and for a rent reduction.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by personal delivery on August 22, 2011. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

### Issues(s) to be Decided

1. Is the Tenant entitled to an Order to cancel the Notice to End Tenancy?
2. Is the Tenant entitled to a rent reduction?

### Background and Evidence

This tenancy started on April 1, 2011 as a month to month tenancy. Rent is \$550.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$225.00 in advance of April 1, 2011.

The Landlord said she served the Tenant with a 1 Month Notice to End Tenancy for Cause dated August 10, 2011 on August 10, 2011. The Effective Vacancy date on the Notice is September 10, 2011. The Tenant is living in the unit and the Landlord said they want to end the tenancy.

The Landlord said the reasons on the 1 Month Notice to End Tenancy are repeatedly late with rent payments, seriously jeopardizing health or safety of other occupants, putting the landlord property at risk, adversely affecting the quiet enjoyment of the property and jeopardizing the lawful rights of other occupants. The Landlord said the Tenant has been late with rent payments for June, July, August and September, 2011. The Tenant said she has had some trouble with the Ministry, so the rent payments have been late as the Landlord has said.

The Landlord continued to say that the Tenant has put the other occupants in the complex at risk when she drops her keys to the ground from her unit so her daughter can enter the building.

The Tenant said that she does not believe that she has caused serious risk or safety issues to the other occupants in the building by dropping her keys down to the ground so her daughter can get into the building after 9:00 at night.

During the Hearing the Dispute Resolution Officer informed the parties that the application is to contest a Notice to End Tenancy for Cause and the monetary claim by the Tenant for a rent reduction is a separate and unrelated dispute to this application. In section 2.3 of the Residential Tenancy Branch Rules of Procedure (Dismissing unrelated disputes in a single application) a Dispute Resolution Officer may dismiss unrelated disputes within an application. The Tenant's monetary claim is dismissed with leave to reapply.

### Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

As well Policy guideline 38 says that 3 late payments are a minimum number sufficient to justify a Notice to end Tenancy.

I find the Tenant does not have the right under the Act to withhold part or all of the rent and both the Tenant and the Landlord agree that the Tenant has been late with more than three rent payment; therefore I find the Tenant has not established grounds for the 1 Month Notice to End Tenancy dated August 10, 2011 to be cancel. I dismiss the Tenant's application with leave to reapply.

Conclusion

I order the 1 Month Notice to End Tenancy for Cause dated August 10, 2011 stand in effect and the Tenant's application dated August 18, 2011 is dismissed with leave to reapply.

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*.

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Residential Tenancy Branch