



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This was the reconvened hearing dealing with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order cancelling a 1 Month Notice to End Tenancy for Cause (the "Notice"). This Decision may be read in conjunction with my Interim Decision of October 31, 2012. It is noted that in that Decision the tenant's request for a monetary order was severed and dismissed with leave to reapply.

Prior to this hearing the landlord submitted evidence stating that the 1 Month Notice to End Tenancy for Cause, which is the subject of this dispute, has been withdrawn pursuant to a further inspection of the tenant's rental unit.

The parties again appeared at this hearing. The landlord confirmed that they have withdrawn their Notice and the tenant agreed.

Under Residential Tenancy Branch Policy Guideline #11, a landlord or tenant cannot unilaterally withdraw a Notice to End Tenancy, except with the consent of the other party. A Notice to End Tenancy can be waived (i.e. withdrawn or abandoned), and a new or continuing tenancy created, only by the express or implied consent of both parties.

In the case before me, I find that the parties had an express agreement that the Notice was withdrawn and that the tenancy would continue.

### Analysis and Conclusion

As the parties have expressly agreed that the landlord's Notice is withdrawn and that the tenancy should continue, I decline to consider the tenant's application as I find that he is no longer in need of the relief sought in his application.

I find the tenancy shall continue until it may otherwise end under the Act.

I make no findings on the merits of the landlord's Notice or the tenant's application.

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* and is being mailed to both the applicant and the respondent.

Dated: November 15, 2012.

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Residential Tenancy Branch