



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 49; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

### Background and Evidence

The following are undisputed facts: The tenancy started on November 1, 2011. Rent of \$1,150.00 is payable monthly. On September 30, 2013 the Tenant was given a notice to end tenancy for landlord’s use (the “Notice”).

It is noted that the form used for the Notice is from Australia. The Tenant states that she will be moving out of the unit on November 30, 2013 and has not paid rent for November 2013 in lieu of the rent equivalency that the Landlord was to provide to the Tenant under the Act for ending the tenancy for landlord’s use. The Landlord states that the Tenant’s security deposit will be returned on that date.

Analysis

Section 52 of the Act provides that In order to be effective, a notice to end a tenancy must be in writing and must be in the approved form. As the Notice given to the Tenant is not from this jurisdiction, I find that the Notice is not effective under the Act and that the Tenant is entitled to a cancellation of the Notice. As the Tenant has been successful, I find that the Tenant is entitled to recovery of the \$50.00 filing fee.

Conclusion

The Notice is cancelled.

I grant the Tenant an order under Section 67 of the Act for **\$50.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: November 27, 2013

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Residential Tenancy Branch

