



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MND, FF, CNC, OLC

### Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for cause pursuant to section 55;
- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant applied for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;

The landlord did not attend the hearing. The tenant attended the hearing by conference call and gave undisputed affirmed testimony. The tenant confirmed receipt of the landlord's notice of hearing package the submitted documentary evidence. The tenant stated that she was aware of the details of the landlord's application. The tenant stated that the landlord was served with her notice of hearing package by Canada Post Registered Mail on August 11, 2015 and has submitted a copy of the Canada Post Customer Receipt Tracking number as confirmation. Based upon the undisputed evidence of the tenant, I find that both parties have been deemed served as per section 88 and 89 of the Act.

At the outset, J.F. and I.G. attended the hearing by conference call reporting that they were the new owners. The tenant stated that she believes this may be true, but that

she has not received any notification from the landlord, S.T. as confirmation. As such, I find that J.F. and I.G. have no standing to participate in this hearing as neither the landlord nor these two parties have filed any documentary evidence to show that they are a party to this hearing.

The landlord was not present to advance his claim and the tenant was in attendance by conference call to respond to the landlord's application. At 18 minutes past the start of the hearing time, the landlord's application for dispute was dismissed without leave to reapply.

During the hearing, the tenant clarified that her selection for an order for the landlord to comply with the Act, regulation or tenancy agreement was made in error. As such no further action is required for this portion of the tenant's application.

#### Issue(s) to be Decided

Is the tenant entitled to an order to cancel the 1 Month Notice?

#### Background and Evidence

This tenancy began on October 1, 2014 on a 2 year fixed term tenancy ending on September 30, 2016 as shown by the submitted copy of the signed tenancy agreement dated September 10, 2014. The monthly rent is \$3,200.00 payable on the 4<sup>th</sup> day of each month.

The tenant confirmed that she was served with the 1 Month Notice dated July 23, 2015 which shows an effective end of tenancy date of August 23, 2015. The 1 Month Notice set out that it was being given as:

- the tenant has caused extraordinary damage to the unit.

The tenant has filed an application in dispute of the 1 Month Notice dated July 23, 2015.

#### Analysis

Based upon the undisputed affirmed evidence of the tenant, I find that the tenant was properly served with the 1 Month Notice dated July 23, 2015.

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met. The 1 Month Notice sets out that the tenant has caused extraordinary damage to the unit.

As the landlord has failed to attend to advance his claim or to justify his reasons for cause, I find that the landlord has not provide on a balance of probabilities justification for the reason for cause noted on the 1 Month Notice dated July 23, 2015. The tenant's application to cancel the 1 Month Notice dated July 23, 2015 is granted. The 1 Month Notice is set aside and is of no force and effect. The tenancy shall continue.

Conclusion

The tenant's application is granted. The 1 Month Notice dated July 23, 2015 is set aside and is of no force and effect. The tenancy shall continue.

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: October 15, 2015

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Residential Tenancy Branch

