



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OLC, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause; for an order that the landlord comply with the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The landlord and the tenant attended the hearing, and discussed settlement of this dispute. The landlord advised that evidentiary material was provided to the Residential Tenancy Branch, and I have identified that evidence, however it was not provided to the tenant. Therefore, it cannot be considered.

The tenant advised that evidentiary material was faxed to the Residential Tenancy Branch by her daughter, however none has been received by me.

The Residential Tenancy Branch Rules of Procedure require a tenant to provide a copy of the notice to end the tenancy that is the subject of the hearing, and absent any copy, I dismiss the tenant's application.

The *Residential Tenancy Act* states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord so long as the notice is in the approved form. In the absence of a copy of the notice, I cannot make such a finding. Therefore, I decline to issue an Order of Possession. If the landlord has cause to issue such a notice and seeks an Order of Possession, the landlord is at liberty to issue another notice and the *Residential Tenancy Act* and Residential Tenancy Branch Rules of Procedure apply.

Having been given an opportunity to do so, the tenant did not raise the application for an order that the landlord comply with the *Act*, regulation or tenancy agreement, and I dismiss that portion of the claim with leave to reapply.

Since the tenant has not been successful with the application, the tenant is not entitled to recovery of the filing fee.

### Conclusion

For the reasons set out above, the tenant's application for an order cancelling a notice to end the tenancy for cause is hereby dismissed.

The tenant's application for an order that the landlord comply with the *Act*, regulation or tenancy agreement is hereby dismissed with leave to reapply.

An Order of Possession is NOT granted in favour of the landlord.

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: June 10, 2016

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Residential Tenancy Branch