



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** CNC OPC

### **Introduction**

Both parties attended the hearing. There are two tenants and one of them said she was never served with the Notice to End Tenancy dated June 16, 2016 to be effective August 1, 2016. The tenants apply pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47;

### **Issue(s) to be Decided:**

Is the tenant entitled to any relief?

### **Background and Evidence**

Both parties attended the hearing. The landlord agreed that only one of the two tenants was served with the Notice to End Tenancy. He said the other one was travelling and he thought she may have left. The second tenant, K.D., pointed out her name was on the tenancy agreement and she had never relinquished her tenancy. She said she had been out of town from February to May 2016 but she had come back and was residing in the unit when the Notice to End Tenancy was served on her co-tenant.

In evidence is a tenancy agreement, the Notice to End Tenancy, other tenancy agreements, a history of problems between tenants and statements regarding late payment of rent.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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**Analysis:**

As discussed with the parties in the hearing, section 44 of the Act provides that a tenancy ends if the landlord gives a tenant notice to end the tenancy in accordance with the legislation (this case section 47). Sections 88 and 89 provide acceptable means of service. I find in this case that one of the tenants, K.D., is listed on the lease as a tenant but was never served with a Notice to End Tenancy.

I set aside and cancel the Notice to End Tenancy for it was not served on both tenants.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is successful. The Notice to End Tenancy dated June 16, 2016 is hereby set aside and cancelled. The tenancy is reinstated and continues. No filing fee was involved.

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: July 28, 2016

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Residential Tenancy Branch

