



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, O

### Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant on August 26, 2016 to cancel a notice to end tenancy for cause, and for “Other” issues.

The Landlord named on the Application, who is the property manager for the rental unit, appeared for the hearing with the Tenant and both parties provided affirmed testimony. The Landlord confirmed that she received the Tenant’s Application as well as all of the Tenant’s documentary and photographic evidence. The hearing process was explained to the parties and they had no questions about the proceedings. Both parties were given a full opportunity to present their evidence, make submissions to me, and cross examine the other party on the evidence provided.

At the start of the hearing, the Tenant confirmed that her Application for “Other” issues pertaining to the cancelling of the notice to end tenancy.

The Landlord confirmed that the Tenant had been served with a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”) on August 19, 2016 by posting it to the Tenant’s door. The Notice was provided into evidence and details a vacancy date of September 30, 2016 and the reason for ending the tenancy is because the Tenant is alleged to have breached a material term of the tenancy agreement that was not corrected after written notice to do so was given.

The Tenant confirmed receipt of the 1 Month Notice on August 19, 2016 and filed her Application on August 26, 2016. Therefore, I determined that the Tenant had disputed the 1 Month Notice within the ten day time limit stipulated by Section 47(4) of the *Residential Tenancy Act* (the “Act”). I also determined that the approved form of the 1 Month Notice and its contents complied with Section 52 of the Act.

The Landlord confirmed that she had not provided any evidence prior to this hearing because she was relying on witness statements and resident complaint letters regarding noise created by the Tenant's vehicle, and that these people did not want their complaints to be disclosed for this hearing. The Tenant disputed the allegations of noise disturbance created by her vehicle and stated that since being issued with the Notice she has had repairs done to her vehicle which will mitigate noise and has avoided parking close to the rental property when this is reasonably practicable.

The Landlord and Tenant had a discussion around the noise situation and agreed to work with each other in coming to mutual resolution in relation to any future disturbances. The Landlord acknowledged that the noise disturbances had decreased but was cautioned about the burden to prove a 1 Month Notice and that this may require the input of the complainants alleged noise disturbance.

Based on the foregoing discussion, the parties agreed to withdraw the 1 Month Notice and allow the tenancy to continue and for the parties to continue working with each other to obtain complete resolution.

Policy Guideline 11 to the Act explains that a landlord or tenant cannot unilaterally withdraw a notice to end tenancy unless there is consent from the party to whom it is given. The Tenant agreed to this course of action. The parties confirmed at the end of the hearing their voluntary agreement to resolution in the above manner. The Landlord is at liberty to serve the Tenant with another 1 Month Notice if resolution is not possible between the parties and must then bear the burden to prove the 1 Month Notice.

### Conclusion

The 1 Month Notice dated August 19, 2016 is withdrawn. As I made no legal findings in this matter, the Tenant's Application is dismissed. The tenancy will continue until it is ended in accordance with the Act. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 21, 2016

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Residential Tenancy Branch