



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC

This hearing was set to hear the tenant's application for an order setting aside a 1 Month Notice to End Tenancy for Cause and granting him more time in which to file the application. Both parties appeared. The landlord advised that her surname had been misspelled on the documents sent to her. The correct surname is reflected on this decision and it has been corrected in the CMS records of the Residential Tenancy Branch.

I only heard enough evidence to determine that this month-to-month tenancy commenced February 5, 1998; that the current monthly rent is \$470.00 due on the first day of the month; and the landlord had served the tenant with a 1 Month Notice to End Tenancy for Cause form that was many years out of date.

At that point I stopped the hearing and explained to the parties that section 52 states that in order to be effective a notice to end tenancy given by a landlord must, among other things, be in the approved form. This meant that the only possible outcomes of the hearing were:

- The tenant's application for an extension of time was dismissed. However, I could not grant the landlord an order of possession pursuant to s.55 because the notice did not comply with section 52.
- The application for an extension of time was granted and I heard evidence on the merits of the reasons stated on the notice.
 - If I found that the landlord did not have cause to end the tenancy the tenant's application would be granted.
 - Even if I found that the landlord had cause to end the tenancy I could not grant an order of possession because the notice did not comply with section 52.

As a consequence the 1 Month Notice to End Tenancy is set aside and is of no force or effect. The tenancy continues until ended in accordance with the Residential Tenancy Act.

The parties were advised that if the landlord wishes to end this tenancy she must serve a new notice to tenancy in the prescribed form and start over again.

As the tenant had not paid a fee to file his application no further order was required.

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 01, 2016

Residential Tenancy Branch

